INQUIRY
MAGAZINE
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David Wise *on Carter's Secrecy Plan*

Philip Caputo *on Herr's Dispatches*

Who Lost Vietnam? by Gareth Porter

The Korean Bribe Scandal

CONGRESSIONAL COVER-UP?

By RICHARD HALLORAN

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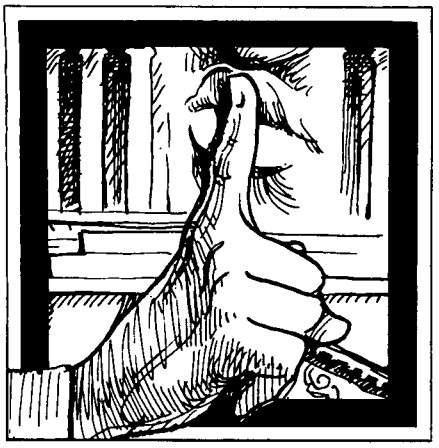

"THE CONCEPT OF THE 'official secret,' " wrote Max Weber, "is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude." If you have any doubts, read David Wise's story in this issue on the Carter administration's new secrecy legislation. Or Richard Halloran's report on how Congress is trying to contain the Korean bribe scandal. Or Gareth Porter on the government's self-serving lies about Vietnam. This issue, perhaps we needn't emphasize, is about government secrecy.

Keeping the lid on the Korean scandal

RICHARD HALLORAN **p. 10**

Toward an Official Secrets Act

DAVID WISE **p. 16**

Inquiries ..... **p. 2**
First Amendment ..... **p. 3**
Media ..... **p. 6**
Books ..... **p. 21**
Film ..... **p. 30**
Classifieds ..... **p. 32**
Letters ..... **p. 32**

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Who said Vietnamization wouldn't work?

■ The Vietnamese military force invading Cambodia has a distinctly American appearance. The Vietnamese are using U.S. warplanes, U.S. artillery pieces, U.S. ammunition, U.S. maps and even U.S. tactics. . . .

If the use of U.S. equipment has enabled the Vietnamese to economize on hardware, it has cost them elsewhere. The U.S. style of warfare consumes vast amounts of fuel, which Vietnam must obtain from the Soviet Union and which is already in short supply. The willingness to fight such a war, even on a limited scale, indicates that the military men retain a commanding voice within Vietnam's political hierarchy. Combined with the aggressive new tactics used in Cambodia, this is a disturbing thought for Vietnam's neighbors.

—Los Angeles Times, Jan. 10, 1978

Representation without taxation

■ When members of Congress voted yesterday to raise Social Security taxes, it didn't cost them a dime. . . .

While 117 million Americans who toil in private industry are obliged to pay whatever Social Security taxes the government decrees, their elected representatives and public servants aren't. They have a better deal—a liberal, taxpayer-subsidized pension plan of their very own.

—Chicago Sun-Times, Dec. 16, 1977

Oh, shut up

■ Former CIA director Richard Helms refused to renege on his oath of office by revealing the extent of CIA "involvement" in Chile. He was fined $2,000 and told by U.S. District Court Judge Barrington Parker, "You stand before this court in disgrace and shame." Helms was then further lectured on the *New York Times* Op-Ed page by Dick Clark, the trendy senator from Iowa.

What has gone wrong with this country? How can it be so filled with termites and death-watch beetles? . . . Because of the stigma of "McCarthyism," there is a widespread reluctance to state the obvious about America today: There is an ugly stain of anti-Americanism spreading across the landscape. *Un*-American is entirely too weak a way of putting it.

So it is time to tell those ghastly Senators, such as Frank Church and Dick Clark, who have had so much fun in front of TV cameras at the expense of their country: Get yourselves a one-way ticket to Cuba. Judge Parker, get off the bench. As for their fellow-travelers among the columnists, send them a can of Raid.

—TOM BETHELL, *The American Spectator, January 1978*

Bring us together

■ We've got to integrate, but I think we should not become the prisoners of past perceptions. And we should be trying new ideas—among them I would suggest two-way interaction television to link schools, along with workshops, joint projects, magnet schools—and try something on the upbeat and the positive to bring people together (emotionally) instead of separating them.

—GOVERNOR JERRY BROWN, *as reported in the Los Angeles Times, Dec. 16, 1977*

Battering down the door would help, too

■ The Justice Department is asking the Supreme Court to grant policemen the power to make surprise searches of newspaper offices for evidence in criminal cases. In a brief filed for arguments to be made tomorrow before the Court, the department urged that the authorities be required to get only search warrants, not subpoenas, on the grounds that subpoenas would remove all element of surprise.

—New York Times, Jan. 17, 1978

But can he kick the subsidy habit?

■ HEW Secretary Joseph Califano yesterday launched a federal crusade to make America kick the smoking habit through public education and possible nicotine taxes. . . .

None of his proposals, however, challenged the federal program of tobacco price supports, and an Agriculture department spokesman indicated that politically sensitive area is out of bounds.

—San Francisco Chronicle, Jan. 12, 1978

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Meddling in the Mideast

Guaranteed trouble

ANWAR EL-SADAT'S DECISION ON January 18 to withdraw Egypt's foreign minister from the political talks in Jerusalem illustrates again how little control the United States has over events in the Middle East. This lack of mastery, as we noted earlier [*INQUIRY*, Dec. 19, 1977], profoundly troubles American policy-makers: Having once worried that Sadat's November initiative would destroy U.S. plans for a Geneva conference, officials of the Carter administration now fret that Sadat's sudden move will destroy the "momentum" toward peace established in the last two months. At this writing, it is impossible to predict whether this latest event means an end to the Egyptian-Israeli talks. What does seem clear, however, is that Sadat's decision signals the beginning of a new and dangerous period for American diplomacy in the Middle East, one in which the Carter administration, following its own meddling instincts, might be tempted to embroil U.S. power and prestige ever more deeply in the region.

There are warning signs of this everywhere. The most troubling is President Carter's statement, in his year-end television interview, that he would consider "very favorably" guaranteeing an Egyptian-Israeli settlement if such action was needed to bring about an agreement. Carter made no firm offer, saying that his "own preference would be that our involvement would be minimized," but he left no doubt of how he would act should the talks run into trouble. This comes as no surprise, since the joint Soviet-American statement on the Middle East last October 1 also mentioned the willingness of the powers to guarantee borders and a peace settlement.

Reports from Cairo and Jerusalem indicate that both sides may be angling for just such guarantees. Israeli Prime Minister Menahem Begin has said that he would consider a mutual defense pact with the United States, and Arab leaders have told Carter that they would not object to such an arrangement if it were needed to reach a satisfactory peace agreement. The danger is that by playing upon Carter's desperate hunger to be the peacemaker in the Middle East, both sides will succeed in extracting such a commitment.

This would be, we think, a foolish and dangerous course for the United States to take. No one who has followed the recent peace negotiations, no matter what his or her opinion of the questions of justice at stake, seriously believes that any agreement resulting from the current Egyptian-Israeli talks will permanently resolve the tensions in the area, particularly those that come from the Palestinian demands for a homeland. The threat of war in the Middle East will continue. For the United States to guarantee such a settlement would mean accepting the risks of military action (if fighting breaks out once again) and a possible confontation with the Soviet Union.

Supporters of Israel might consider, too, the dangers that an American guarantee of a Middle East peace might hold for Israel. Though the United States over the last 30 years has frequently been a strong supporter of Israel, there remains the chance that Arab oil, not cultural and political affinities for Israel, will ultimately determine the course of American policy. Opinion polls show that a majority of Americans already oppose the notion of having U.S. troops fight to defend Israel; the percentage would certainly grow if U.S. military support of Israel meant lost jobs, cold homes, and lines at the gas pumps. A glance at postwar history should teach Israeli leaders that American promises, offered in moments of calm, do not always bear the weight of crisis and sacrifice. Those who are concerned with Israel's independence and safety might ask themselves whether their best hopes lie with the United States, whose course they cannot always control, or with a peace settlement that allows Israel to guarantee its own destiny.

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NAT HENTOFF

Free press v. fair trials

THE SIXTH AMENDMENT to the Constitution guarantees anyone unlucky enough to be the defendant in a criminal prosecution the right "to a speedy and public trial by an impartial jury." The First Amendment guarantees the right of the press to report on that trial and, it would seem, on pretrial proceedings as well. But what happens when the press prints information (true or false) so prejudicial to the defendant that it is highly unlikely his case will be heard by an "impartial" jury?

In what a federal appeals court has called "a civil libertarian's nightmare," these two rights are often in fierce conflict. Until 1976, an increasing number of judges were solving the problem by placing direct "gag orders" on the press—ordering journalists not to print, until the trial was over, reports of the defendant's confession or his previous arrest record or other material that might seriously interfere with his prospects for a fair trial.

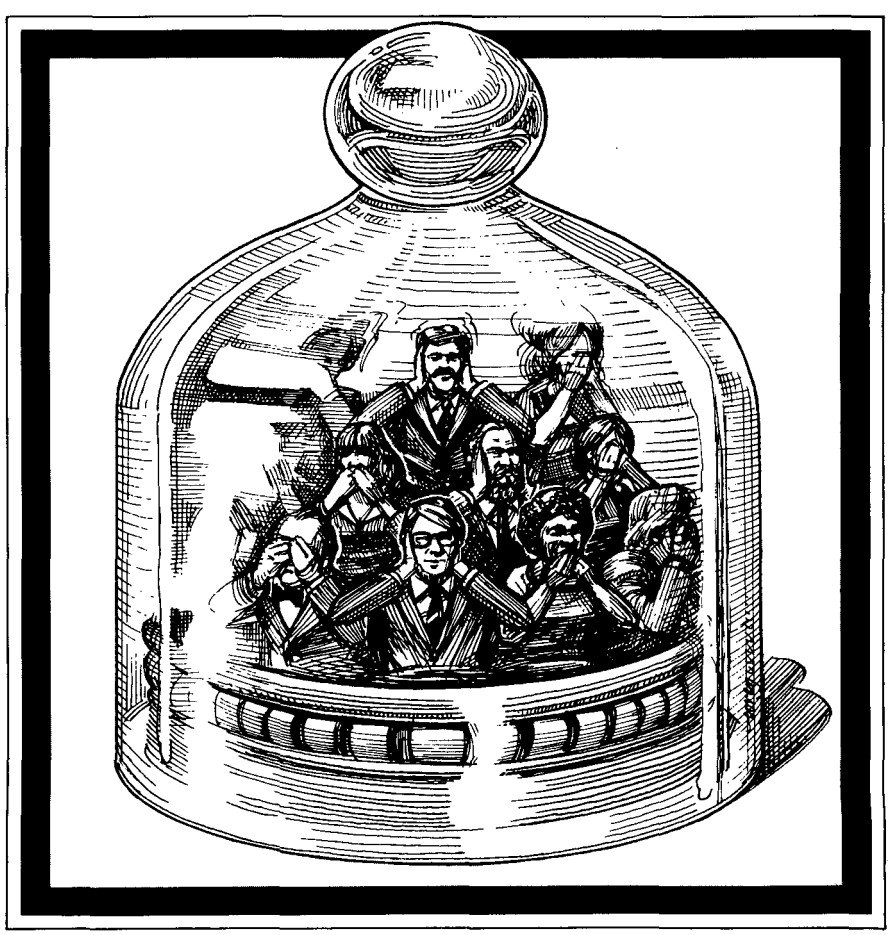
That route, however, has been almost entirely closed off by the Supreme Court in *Nebraska Press Association* v. *Stuart* (1976). It was the first time the Court had ever dealt directly with a judge's right to censor the press in the interest of a fair trial. In a unanimous decision, the justices declared unconstitutional various gag rules that the Nebraska courts had placed on the press in a notorious murder case. Although only three members of the Court (Brennan, Stewart, Marshall) declared gag orders to be absolutely violative of the First Amendment, the rest agreed with Chief Justice Burger that "the barriers to prior restraint remain high and the presumption against its use remains intact." That is, only under such extremely unusual circumstances as to be beyond the present imaginings of the Court, would it be possible for a judge to get away with directly muzzling the press.

On the occasion of this famous victory, the press lifted a glass. Since the *Nebraska* case, however, lower courts around the country have been energetically using other ways to block the press from publishing information that they feel might prejudice a trial. Some judges have closed their courtrooms for pretrial hearings in certain cases (such as that of Tony Boyle, former feudal lord of the United Mine Workers). Others have placed gag orders on attorneys for both sides, court and police officers, witnesses, and defendants. These participants in criminal proceedings are forbidden to talk to the press, thereby cutting off a major source of possible prejudicial reporting.

IN PROTEST, REPORTERS, editors, and a number of First Amendment lawyers have been maintaining that while the press is no longer being directly censored, the result of these various exclusions of reporters from access to news is indirect prior restraint and is greatly damaging to the right of the public to know what goes on at all stages of what is, after all, their criminal justice system.

I asked a lawyer who frequently appears before the Supreme Court on First Amendment cases whether this surge of judicial zeal to assure a fair trial indicates a newly intensified concern by the lower courts for defendants' rights. "Not necessarily," he said. "A large part of what's going on has to do with judges worrying that convictions in their courtrooms might get reversed on the grounds of prejudicial press publicity. Judges do not like getting reversed, and so they are increasingly willing to shut out the press, particularly during pretrial procedures."

In December 1977, by a 4–2 vote, the prestigious New York State Court of Appeals sweepingly ruled, as the *New York Times* reported, that "a judge should *ordinarily* exclude reporters from pretrial hearings on admissibility of evidence if news reports *might* prejudice



CHRIS COREY

NAT HENTOFF writes a regular monthly column on civil liberties issues for INQUIRY. His recent books include Does Anybody Give a Damn? *and* Jazz Is.

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potential jurors." (Emphasis added.) The Supreme Court has been asked to review this particular case. Should it refuse—thus allowing the New York Court of Appeals decision to stand—it is quite likely that more and more pretrial hearings will be closed to the press throughout the country. And if the High Court affirms the decision, that likelihood, of course, will be a certainty.

THESE ARE THE DETAILS. See how you come out in deciding between the imperatives of the First and Sixth Amendments.

Two men were indicted on charges of second degree murder and robbery in connection with the disappearance of a former policeman in Seneca County, New York. (The body has never been recovered.) At a pretrial hearing, the defense moved to suppress evidence it claimed had been improperly obtained by the state. The defense also moved to have the press removed from the hearing, arguing that even if the evidence was found to be tainted, the press would write about it, thereby creating a prejudicial atmosphere for the trial. In other words, said the defense, even if the judge ruled that the evidence against the defendants could not be admitted, that information would already have gone into the heads of the readers and television watchers.

The court agreed to exclude the press because there was "a reasonable probability of prejudice to the defendants."

By the time the case came to the Court of Appeals, the defendants had already pleaded guilty to lesser charges. Usually, New York State's highest court would have declined to hear the matter because it was moot. But, said Judge Sol Wachtler, speaking for the majority, "this is far from an ordinary appeal. It crystallizes a recurring and delicate issue of concrete significance both in the courts and the news media."

It does indeed. And the majority decision may freeze that crystallization for some time to come. "At the point where press commentary on [pretrial suppression] hearings would threaten the impaneling of a constitutionally impartial jury," Judge Wachtler says flatly, "pretrial evidentiary hearings in this State are presumptively to be closed to the public." After all, "Suppressed evidence should not be used to determine a defendant's guilt, not at trial and certainly not before trial through publication of illegally obtained evidence by the media. . . . Particularly where a fair trial may hang in the balance, the Constitution should not be considered as a substitute for a sunshine law."

HAVING BANISHED THE press from most pretrial hearings on admissibility of evidence, the majority of the court allowed as how there might be exceptions in cases involving public officials as defendants. But even then, it would be up to the press to prove that the public had "an overwhelming interest in keeping all proceedings open."

To others, that notion seemed a curious, and rather alarming, reversal of the once time-honored First Amendment standard that the burden of proof is on the *government*, not the *public*, to justify the sealing of courtrooms. Judge Lawrence Cooke, dissenting, was appalled at what his brethren had wrought: "A closed proceeding should be recognized for what it is—a 'serious backdoor threat to First Amendment interests.' . . . The right to report the news is too vital to the nature of a free state to allow the press to be stifled under the pressure of direct 'gag' orders, or *even more subtle means of accomplishing the same illicit end*." (Emphasis added.)

Judge Cooke was pessimistic about the impact of the decision: "The guidelines expressed by the majority signal the common, if not certain, locking of the courtroom door virtually whenever requested in pretrial hearings."

Cooke also understood, as the majority did not, that in this pretrial hearing, there were police matters of large and legitimate public interest. The issue was whether certain evidence had been illegally obtained, and Cooke said, "the public has a right to scrutinize the effectiveness of police agencies in coping with criminal activity. . . . 'The testimony of police officers regarding conduct which usually occurs, more or less, in private within an environment which the police themselves create and in which they reign, should not be given in secret.' "

Cooke was as pessimistic about the impact of the majority's decision as is much of the press: "The guidelines expressed by the majority signal the common, if not certain, locking of the courtroom door virtually whenever requested in pretrial hearings. To allow closure on the mere showing that press commentary would 'threaten' the impaneling of an impartial jury affords almost no protection to First Amendment rights for the simple reason that in cases of notoriety it will always be possible to show some risk of prejudice. Of greater concern, however, is that the majority has turned the burden of proof around."

WHILE THE SUPREME Court is considering whether to address itself to this imbroglio, other such cases, from other states, have come before lower appellate panels with diverse results. The special danger of the New York Court of Appeals ruling is that this bench has traditionally had considerable national influence on First Amendment matters. (This is, in part, because so many nationally circulated publications are located in the state.)

For good or ill, will the Supreme Court clear up the matter in the near future? A widely experienced advocate for press groups before the Court thinks not. "They have never directly confronted this issue of whether closing pretrial hearings is an abridgement of the First Amendment," he says. "Therefore, I think they'll wait for more cases until they have a sufficient number of divergent lower court opinions on which to base their own judgment. Even the Justices who are usually more likely to come down on the side of the press may find this one difficult. I'd hesitate to guess the outcome."

A recent article by Tom Wicker in the *New York Times* illustrates the injury to justice that could result if the New

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York State Court of Appeals "fair trial" decision prevails. "Consider what happened in Georgia," he wrote. "At a pretrial hearing last summer, fully covered by newspapers, radio and television, the Dawson Five defense showed conclusively that the confession of Roosevelt Watson, one of the Five, had been coerced from him by such repellent means as wiring him to a polygraph machine, then telling him he would be electrocuted if he did not confess."

Eventually, a judge suppressed the confession, and the prosecution dropped the case because it had no other evidence. But, Wicker noted, "Had the press been excluded from those pretrial hearings, it is entirely likely that the Dawson Five would have gone to trial, a South Georgia jury would have been presented with the tainted confession, and the Five might well have been found guilty of murder as a consequence. In Georgia, however, the press had to be admitted; in New York, the press now will be excluded from such hearings in most cases."

IF THE SUPREME COURT does decide to wait several years before it finally copes with the question of shutting the press out of pretrial hearings, the peril of the New York decision becoming the guiding precedent is that the decision requires the press to prove it has the right to be in the courtroom. By contrast, the less influential Supreme Court of New Jersey held last year that in order for the press to be excluded, the prosecution or the defense must show that a closed courtroom in a particular case is the only way to prevent a clear and present danger to the administration of justice.

In what ways could the presence of the press constitute a clear and present danger? It has been held in the past that a closed hearing may be necessary to prevent the exposure of trade secrets. And the federal Second Circuit Court of Appeals ruled last year that a courtroom could be closed to safeguard an informer's identity. "I find that a little peculiar," a First Amendment lawyer told me, "because after all, the defendant is there looking at that informer. But all right, I understand the court's point. The informer will not be particularly comfortable if his name is all over the papers."

It may also be necessary to ban the press and the public when a witness, not necessarily an informer, is so frightened at the prospect of testifying in open court as to be voiceless. This kind of exception, of course, would have to be decided on a case-by-case basis. In addition, as a Washington lawyer says, "I would concede that in certain instances, questions of alleged national security may require a court being closed for portions of a particular case. But there, too, the burden of proof that the material is *that* sensitive has to be on the government."

These narrow categories aside, the arguments for keeping courtrooms open—including pretrial hearings—go back, as the Supreme Court observed years ago, to the traditional "Anglo-American distrust for secret trials." And, said the Court in *Sheppard* v. *Maxwell* (1966), "the function of the press serves to guarantee the fairness of trials and to bring to bear the beneficial effects of public scrutiny upon the administration of justice."

A good many lower courts are taking the Supreme Court's advice about muzzling everybody except the press. And so, even if the New York Court of Appeals decision is overturned, this other form of indirect prior restraint will continue.

THE DILEMMA REMAINS, however. How can the trial be fair, certain defendants ask, if the press prints such prejudicial publicity before the trial that it is impossible to assemble an impartial jury?

In both the *Sheppard* and *Nebraska* cases, the Supreme Court suggested an answer. Without at all deciding on the constitutionality of closing pretrial proceedings, various justices proposed, in the words of William Brennan, that "judges may stem much of the flow of prejudicial publicity at its source, before it is obtained by representatives of the press."

They meant that under special circumstances, a court may place a gag on attorneys for both sides, witnesses, the defendant, court and police officers, and others connected with the case. There is no *direct* prior restraint on the press, but this approach does abridge the First Amendment rights of those who have been prohibited by court order from talking to the press. (As a California district attorney said, "Prosecutors have rights, too.")

A good many lower courts are taking the Supreme Court's advice about muzzling everybody except the press. And so, even if the New York Court of Appeals decision encouraging judges to boot the press out of pretrial hearings is eventually overturned, this other form of indirect prior restraint will continue.

MANY CIVIL LIBERTARIANS think a general gag order on public officials—prosecutors, police, and other public agents involved in a case—may yet make the First and Sixth Amendments cohere. They, like the American Civil Liberties Union, urge, however, that defense attorneys (and defendants) not be gagged because the weight of public opinion is usually on the side of the prosecution.

Nonetheless, as will be explored in a future column, there are also dangers in the general gag order. If the press is the surrogate of the public in court proceedings, how can it fully inform the public when a judge officially cuts off many of its essential sources?

In a concurring opinion in the *Nebraska* case, Mr. Justice Brennan said: "The press may be arrogant, tyrannical, abusive, and sensationalist, just as it may be incisive, probing, and informative. But at least in the context of prior restraints on publication, the decision of what, when, and how to publish is for editors, not judges."

A ringing affirmation of the First Amendment. But what about indirect prior restraint—the closing of courtrooms and the gagging of everyone in sight by the press?

The "civil libertarian's nightmare" may never end. ❑

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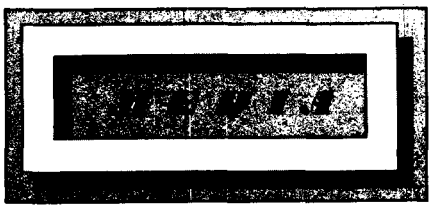

GARETH PORTER

Who lost Vietnam?

EXCEPT FOR THE FINAL collapse of the Saigon government and the hasty evacuation of U.S. forces in April 1975, the Tet offensive of 1968 was unquestionably the most dramatic episode of the entire Vietnam War. It shook American opinion, politics, and policy, not only because of the unexpectedness and scope of the campaign and the close coordination of the attacks on every major city and most provincial capitals, but also because of the extent and visibility of the destruction and carnage caused by American firepower. Inevitably, by crystallizing the arguments for disengagement, it helped foes of the war mobilize and expand their forces.

Just as inevitably, there have been reinterpretations of the offensive to show that it was not the American defeat that it had seemed at the time. The first such reinterpretation was Don Oberdorfer's *Tet!*, published in 1971, which suggested that the Communists had won a political victory in the United States in spite of the fact that they had lost the battle. Now Oberdorfer's argument is carried several steps further in *Big Story: How the American Press and Television Reported and Interpreted the Crisis of Tet 1968 in Vietnam and Washington* (Boulder, Colorado: Westview Press, 1977), a massive critique of media coverage of Tet by former *Washington Post* correspondent Peter Braestrup.

In a ponderous, 740-page analysis, accompanied by a second volume of documents, Braestrup makes a case that will appeal to those who suspect that the press has carried its adversary role too far; that the news media, both in Washington and in Vietnam, reacted to the offensive by setting out to prove that earlier optimistic statements by the Johnson administration were wrong and exercised subjective judgments in portraying Tet as a disaster for the U.S. war effort; that journalists exaggerated the faults of the United States and Saigon during Tet, and ignored or played down those of the Communists; that in reality the offensive was not a defeat for the United States and Saigon but for Hanoi and the National Liberation Front.

Plausible and appealing as the argument may be, it is impossible to support with documentation. It is no accident that Braestrup cites virtually no independent evidence to support his views on the alleged realities of Tet. Except for some references to U.S. propaganda output intended to portray the offensive as a failure and the Communists in the worst possible light, the case turns out to be based on deductive logic rather than hard evidence.

BRAESTRUP SOMETIMES attempts to substitute flat assertion for documentation. One key chapter begins with the statement, "There is fairly broad agreement among historians today that Hanoi suffered a military setback during the 1968 Tet offensive." But there is not a single historical work cited in support of the assertion. Few independent historians would endorse such a statement, since it suggests that the success or failure of the offensive can be measured solely in conventional military terms: destruction of the foe's military units and capture of territory.

The author tries to argue that Hanoi seriously miscalculated in counting on the disintegration of Saigon's army, severe damage to the U.S. military machine, and popular uprisings in support of the NLF. Since none of these objectives was achieved and the cities were not held permanently, he argues, the offensive must be considered a failure and a defeat.

But circumstantial evidence, interviews with those involved in planning

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the offensive, and captured documents all indicate that Hanoi's expectations were more sophisticated and realistic than the author would like to believe. Tran Van Dac, a former officer in the People's Liberation Armed Forces who participated in the planning of the attack on Saigon, told me in a July 1968 interview that the Communist command had two plans, as they always did, for the offensive: One assumed that they would be able to hold the city; the other assumed that they would be driven out by U.S. air power. This information contradicted the argument put forward by Douglas Pike of the United States Information Agency, and cited by Braestrup as a primary document, that the leadership counted on its troops holding the major cities permanently.

Similarly, the author relies on the Johnson administration's line that the success of the offensive depended on a nationwide popular uprising, and that the absence of such an uprising showed the Communists that there was no support for their objectives. Not so, according to prisoner interrogation reports made available to me by the U.S. Embassy in the summer of 1968. Most officers and cadres understood that the urban population would either flee from the area, to avoid air or artillery attacks, or stay in their own homes as long as the fighting continued. They did not count on political "uprisings"—demonstrations in the streets and efforts to smash the Saigon administrative apparatus—unless and until the Communists gained uncontested control over the cities.

In fact, as CIA analyst Patrick McGarvey has noted in his book, *Visions of Victory*, the evidence indicates that the Communists expected the war to end by negotiations—not by a sudden collapse of the Saigon army or the destruction of U.S. forces—and the offensive was aimed at forcing the United States to begin the phase of negotiating while fighting. But Braestrup makes no mention of any connection between the offensive and Hanoi's negotiation plans, except to suggest that diplomatic stories in the wake of the offensive were irrelevant.

"Big Story" is undoubtedly only the first of a long series of books that will try to convince Americans they were cheated of the victory they should have had in Vietnam.

BRAESTRUP RESERVES some of his harshest words in the book for newsmen who reported that the offensive apparently had political and psychological aims and that it achieved significant success. He argues that it was impossible to know what the Vietnamese thought about the offensive or to estimate how badly pacification would be hurt, and accuses the media of indulging in "psychoanalysis" of Vietnamese out of a desire to "rebut official claims." He concludes: "At best, this was overwrought instant analysis; at worst, it was vengeful exploitation of a crisis. Historically, it proved unfounded."

This is a gratuitous slap at the motives of journalists in Vietnam. The fact is that the "speculation" in press reports about the psychological impact of the offensive was not the subjective creation of reporters but an accurate reflection of the interpretation most widely held by U.S. officials in Vietnam. General Earle Wheeler, chairman of the Joint Chiefs of Staff, in his top-secret assessment of the situation in late February 1968, concluded that the overall objective of the campaign was to "strengthen [the enemy's] position politically and psychologically both in South Vietnam and abroad." His judgment was that "the people in South Vietnam were handed a psychological blow, particularly in urban areas where the feeling of security had been strong." Major General George Eckhardt, the newly installed senior U.S. military man in the Mekong Delta, told newsmen early in February that the Communists had undermined confidence in Saigon's ability to maintain security. And a press briefing on the offensive in the II Corps area included the statement that "the people's confidence in the GVN [government of Vietnam] to protect them had been greatly reduced, as the VC [Vietcong] propaganda, prior to the Tet offensive, indicated that the cities would be attacked and entered; and the VC did exactly what they promised." These high-ranking military men were presumably not interested in "rebutting official claims." Braestrup's charge is thus a case of his being "more royalist than the king."

It was easy enough for a journalist to find evidence of Tet's psychological impact on the conflict. When I visited the Trang Bang district of Hau Nghia province in June 1968, I learned that the NLF had become increasingly bold in its political and administrative activities in the area after Tet. Whereas before Tet, NLF cadres had entered the district town only occasionally to collect taxes, they were now entering it constantly and were much more thorough in their taxation. The key factor in the new aggressiveness was the psychological edge that the Communists had over the local Saigon military unit. By reminding the military post by bullhorn each night that they could enter Saigon at will and could attack the post as well, the local NLF cadres had caused the Army of the Republic of Vietnam to become increasingly passive.

ANOTHER KEY TO THE TET offensive's political impact in the United States was the disruption of the "pacification" program, which had been touted in late 1967 as having put 67 percent of the population in either "secure" cities and towns or "under reasonably good security conditions in the country." Braestrup charges that the media prematurely —and wrongly—portrayed post-Tet pacification as an unmitigated disaster, again based on the desire for "retribution" and drama. Most correspondents did indeed report that pacification was on the ropes, and that most of the countryside had reverted to Communist control, after half of the ARVN battalions assigned to maintain security in the hamlets had withdrawn to protect the cities from further attacks.

This was hardly a newsman's pipe dream. General Wheeler reported in late February a series of conclusions that closely paralleled the offending media coverage: (1) "There is no doubt that the RD [Revolutionary Development] Program has suffered a severe setback"; (2) "To a large extent the VC now control the countryside"; (3) "It is not clear as to when, or even whether, it will be possible to return to the RD program in its earlier form." A U.S. mili-

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tary historical summary of the offensive in the Mekong Delta, completed in April 1968, was equally emphatic: "The Tet offensive in IV Corps had a devastating effect on the Revolutionary Development Program."

A report by Robert Schakne of CBS in late February that Ambassador Robert Komer, chief of the pacification program, would probably ask for more American troops in order to "help get the Vietnam pacification program back on the road" is derided by Braestrup as a fantasy. However, Wheeler's report shows that the Military Assistance Command, Vietnam (MACV) did believe at the time that additional U.S. forces would be required "in a number of places to assist and encourage the Vietnamese Army to leave the cities and towns and reenter the country," especially in the populated Delta region. In short, the media were once again reflecting official views of the post-Tet situation, not taking "retribution," as Braestrup asserts.

Braestrup makes much of the fact that it took only seven months to return the "Hamlet Evaluation System" figures back to pre-Tet levels, and that by the end of 1969, the same system showed almost 93 percent of the population living in "relatively secure areas." But these figures were even more meaningless than the pre-Tet pacification statistics. What he fails to mention is that the ARVN was able to reoccupy the countryside because of a decision by Hanoi in the late summer of 1968 to lower the level of fighting and withdraw most of its main force units from the South. That decision was made for several reasons, including the significant increase in B-52 strikes as a tactical weapon to break up major Communist troop concentrations during the second- and third-wave offensives in May and August, and the belief that it would be better to await the withdrawal of most U.S. troops before striking the next major blow. That decision gave the United States and Saigon renewed confidence in their ability to "pacify" South Vietnam, but it did not invalidate the pessimistic reporting in the U.S. press on the situation in the countryside in February and March 1968.

ONE OF THE MAIN THEMES in *Big Story* is that the news media gave too much emphasis to the destruction and death visited on the cities during the offensive, and portrayed the United States as callous in its indiscriminate use of firepower. Braestrup resorts to what he calls "strawman journalism" when he writes, "All Vietnam, it appeared on film at home, was in flames or being battered into ruins, and all Vietnamese civilians were homeless refugees." This was not claimed by newsmen, of course. They merely cited official statistics and gave their own eyewitness accounts of the destruction and death to show that they were unparalleled in the Vietnam War: more than 63,000 homes destroyed, more than 820,000 new refugees, and more than 7500 civilians dead, according to government figures.

The "speculation" in press reports about the impact of the 1968 Tet offensive was not the subjective creation of reporters but a close reflection of the view widely held by U.S. officials in Vietnam.

By any standard, this was a major story. But Braestrup, who says he was "perhaps less shocked by war's waste and destruction than were my colleagues experiencing these for the first time," feels the media should have "balanced" their coverage of the story by showing more film of, and giving more space to, those parts of each city that were *not* destroyed. He also believes the destruction should have been put into context by indicating that it was not as bad as the destruction in the Korean War, a view evidently not shared by another veteran of the Korean conflict, Robert Shaplen of the *New Yorker*, who wrote in 1968: "Nothing I saw during the Korean War, or in the Vietnam War so far, has been as terrible in terms of destruction and despair as what I saw in Hue."

Braestrup suggests that the coverage of destruction by U.S. firepower should have been balanced by stories about the Communists' "indiscriminate use of their own firepower," which he says was "largely overlooked." That may have been because firsthand accounts agreed that the Communists did not cause the kind of indiscriminate destruction that U.S. and Saigon air and artillery attacks did in the cities. Braestrup does not deny that U.S. and Saigon forces, rather than the occupying Communist troops, caused most of the destruction in Hue. (He incorrectly asserts that only 40 percent of Hue's buildings were destroyed, whereas the official statistics issued by the Agency for International Development in April 1968 showed that 77 percent of Hue's buildings were "seriously damaged" or totally destroyed.) But he insists that newsmen should have mentioned "the fact that the NVA [North Vietnam Army] chose to make a stand in strength in Hue," in reporting the destruction, as though that would have balanced the responsibility.

BRAESTRUP CRITICIZES the media for being indifferent to the execution of civilians in Hue, which he calls the "largest single toll of civilians inflicted by either side during Tet." In fact, that distinction must go the the U.S.-Saigon bombing and shelling of Hue, in which approximately 4000 of Hue's 150,000 civilians were believed by Saigon authorities to have died. Only later, as part of the political warfare campaign about Communist killings in Hue, was that figure for civilian dead in the battle of Hue unaccountably reduced to 944. Yet Braestrup offers this clearly politically motivated figure rather than the original one.

The argument that the "Hue massacre" story was "largely ignored" in the media is difficult to fathom, since Braestrup notes that no less than 14 stories about the allegations appeared in the wire services during the Tet period. Indeed, given the fact that allegations referred to 300 to 400 government officials killed in Hue—only one-tenth of the civilian toll in the fighting—it did not seem like a major story. What made the "Hue massacre" a major story was the publicizing by U.S. Embassy propagandist Douglas Pike, who wrote a pamphlet on the subject in late 1969 at the request of the American ambassador to Saigon, Ellsworth

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Bunker. Pike claimed that the Communists had intended to kill not only security officials but "all persons, including students and intellectuals, who were a potential threat to a new Communist order" and ultimately decided to kill all those who could identify local cadres. Pike claimed that nearly 5000 civilians had been the victims of Communist executions in and around Hue.

The Pike account was given widespread press coverage by background interviews in late 1969 and again in the spring of 1970 when it was published by the Embassy. It was the basis for continued commentary on the "massacre" in the press and by political figures —including, of course, President Nixon. That coverage made it the best-known incident of the Tet offensive, if not of the entire war. But Braestrup fails to mention this later coverage.

THE QUESTION MUST BE asked whether the widespread coverage of Pike's findings was warranted. Pike's conclusions do not hold up very well under careful investigation. This writer undertook a detailed examination of the Communist occupation of Hue in 1973–1974, based on all the available evidence, including captured documents made available to me by the U.S. mission in 1971 and 1972 ("The 1968 'Hue Massacre,'" *Congressional Record*, February 19, 1975, pp. S2189–94). I found that the evidence contradicted Pike on every major point. While there were executions of civilian officials, there was no policy of general purge, whether of officials or intellectuals or religious persons, as Pike suggested. The evidence indicates that the vast majority of the 2800 bodies uncovered in and around Hue in 1968 and 1969 were victims of the fighting rather than of Communist execution.

None of this could have been known at the time Pike's account first surfaced, of course, but given the fact that Pike was relying on the Saigon political warfare department for most of his data, which was otherwise unverified, one might have asked for more skepticism and reserve from the press. And since the Pike report was the major piece of "evidence" used by the Nixon administration to support its "bloodbath" argument for continuing the war, one might expect Braestrup to show at least some curiosity about its accuracy. Indeed, according to Frank Snepp, a former CIA analyst in Vietnam, "The whole idea of a bloodbath was conjured out of thin air," and the stories were planted in the press by American officials "to generate sympathy for the South Vietnamese cause abroad." But Braestrup, who at one point associates himself with this official theory, shows no inclination to subject it to the same scrutiny he gives to journalists' reports.

Braestrup's book is clearly more than an exercise in media criticism. It is an effort to show that the United States could have won in Vietnam, had it not been for the soft, the fainthearted, and the impatient at home. In short, Braestrup is aligned with one side of an intellectual, moral, and political debate over the Vietnam War—an argument that will continue for many years to come. There is no space in this article to discuss the author's lack of historical perspective, which helps to explain his insensitivity to the political implications of a government set up and maintained for more than a quarter-century by foreign powers, and his faith in the ability of American military power to prevail over a deeply entrenched revolutionary movement. These characteristics make *Big Story* a caricature of prowar views.

BUT BRAESTRUP IS ONLY part of a much larger segment of the political and media elite in the United States which is eager to reinterpret the Tet offensive in order to refight the issue of Vietnam. His work was financed by Freedom House, a bastion of support for many years for the most extreme Cold War, anti-Communist policies in Indochina. To say that Freedom House has an ax to grind on Vietnam is something of an understatement. Its interest is clearly to vindicate the past views of its Board of Trustees, which includes Leo Cherne, one of the founders of the American Friends of Vietnam and a major prowar propagandist throughout the conflict.

Big Story is undoubtedly only the first of a long series of books that will try to convince Americans they were cheated of the victory they should have had in Vietnam. One of the objectives of such books will be to turn the Tet offensive into a major defeat for the Communists. Braestrup's work, for all of its weakness of argumentation and documentation, will probably be cited by these authors as having proved this point. ❑

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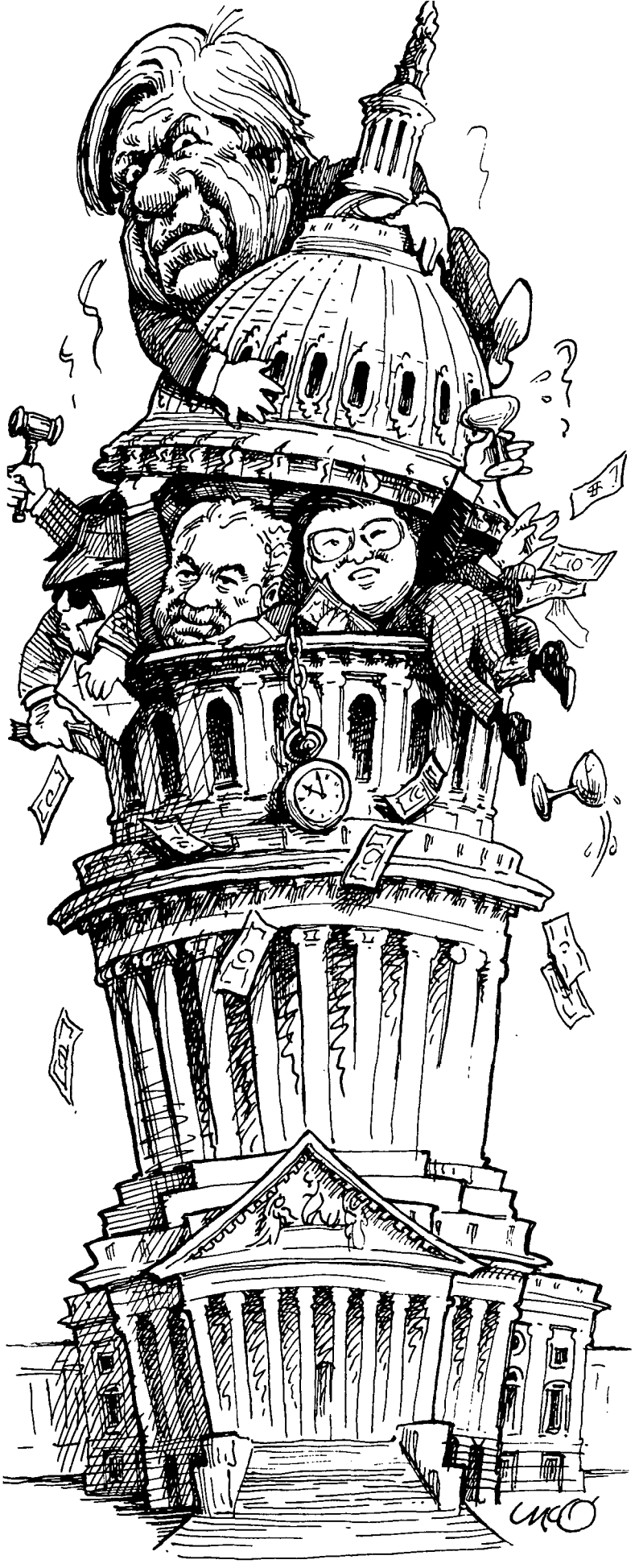

KEEPING THE LID ON THE KOREAN SCANDAL

The House Ethics Committee won't name the names of fellow Congressmen

By RICHARD HALLORAN

THE HOUSE ETHICS COMMITTEE IS fast approaching a moment of truth: The issue is whether the committee will name those congressmen who have improperly accepted money, gifts, or favors from officials or agents of the South Korean government. Put another way, the question is whether the committee will identify for the public those members of the House who have violated the Constitution, the standards of official conduct, and their public trust.

The issue is in doubt because the record of the Ethics Committee, in this and in earlier inquiries, is less than stellar. Led by Representative John J. Flynt, Jr. (D.-Ga.), the committee has not achieved a reputation for the sort of tough, detached, impartial investigative work that everyone in

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Washington agrees will be necessary for this unenviable task.

As the Congress reconvenes, the committee is proceeding along two tracks, both of which take it beyond the investigation of the Justice Department, which is limited to criminal prosecutions. One is to question congressmen, their staff aides, and other witnesses on what the congressmen may have taken from Korean officials or such covert agents as Tongsun Park, the businessman who had his headquarters in Washington. The other is to try to persuade the Korean government to make information available from Park and from former Korean ambassadors to Washington, senior officers of the Korean Central Intelligence Agency, and intelligence officers who served in the United States.

Neither of these inquiries, however, can proceed forever. The committee has nearly exhausted its sources of information, including those in the American intelligence agencies. The Korean government, barring a stunning turnabout, has given little sign of cooperating with the committee. There is talk in Washington of forcing the Koreans to cooperate by cutting off economic and military aid. But that would be time-consuming and risky, both politically and strategically. Thus, the committee will soon be confronted with a decision to go public with what it has, even if that is incomplete, or to keep plodding along in hopes that the issue will somehow either resolve itself or quietly die.

Representative Bruce F. Caputo, Republican of New York and the committee's resident critic, is pessimistic. In a recent interview, he said he does not foresee any public action within the next few months. "Chairman Flynt has been telling the speaker [Thomas P. ("Tip") O'Neill of Massachusetts] that nothing has changed, that everything is under control, and to trust him."

But Caputo was a bit more optimistic about the more distant future. "The committee is on a collision course," he said. "The staff won't tolerate an indefinite delay. The evidence against some congressmen is compelling and too many people know about it, including me, for it to go away unnoticed." Moreover, Caputo, who has been outspoken since he came to Congress a year ago, warned that "there are ways to bring it out if the committee doesn't do it." Caputo doesn't come right out and say it, but one of those ways is obviously full-scale leaks to the press, with all the turmoil that might cause. Insiders on Capitol Hill have said the same thing privately.

CHAIRMAN FLYNT, THE COURTLY Georgian who has been feuding with Caputo almost since the day the Korean inquiry began, was in Europe on an appropriations committee trip and was not available to comment for this article. A spokesman, however, indicated that the chairman feels no sense of urgency about the investigation and said that Flynt favors "just plodding along, doing just what we've been doing all along."

On the other hand, Jaworski, the special counsel to the committee who gained fame as special prosecutor of the Watergate case, has maintained since he began with the committee in August that the investigation would be a thorough one. "The trust of the people in this great chamber is in issue," he said then. "To preserve that trust, we can agree that the House itself must ferret out all the facts, it must lay them before the American people, and wherever guilt is found, it must take appropriate corrective measures."

Jaworski's view was echoed during a hearing in October by Representative Richardson Preyer, Democrat of North Carolina and a former judge. Said Preyer, "I think one of the questions the public will be asking during these hearings is whether Congress can be trusted to investigate itself." Preyer, who is quiet but perhaps the most judicious of the 12-member committee, seemed to have misgivings. "I don't think any final verdict on that can be entered until all the hearings are completed, until the report is written. I hope judgment will be suspended until that time." Then, in a tone of hope, he added, "I personally feel that we will answer that question in the affirmative."

There is no certainty, however, that the views of Jaworski or Preyer are shared by the chairman or the majority of the committee. Jaworski is responsible to the speaker, Tip O'Neill, and to the House itself for the conduct of the investigation. But Flynt controls the committee, when it will meet, whether it will meet in open or closed session, how it will proceed, what issues it will raise, and to some extent how it will vote. O'Neill, despite his public endorsement of a complete examination of the scandal and his recruitment of Jaworski, has shown no inclination so far to interfere with Flynt's prerogatives as chairman.

The committee will soon be confronted with a decision to go public with what it has, even if that is incomplete, or to keep plodding along in the hopes that the issue will somehow either resolve itself or quickly die.

With the investigation itself being the province of Jaworski, the committee has become, in effect, a grand jury, which will consider the evidence presented to it by the staff. Insiders on Capitol Hill say that the members of the committee most reluctant to censure or reprimand their colleagues include Flynt, Floyd Spence (R.-S.C.), the ranking minority member; Olin Teague (D.-Tex.); and James Quillen (R.-Tenn.). Two others who have shown little enthusiasm for the inquiry are Thad Cochran (R.-Miss.) and Walter Flowers (D.-Ala.), both of whom, evidence indicates, may have conflicts of interest.

At the other end of the spectrum are the committee's two activists, Millicent Fenwick of New Jersey and Bruce Caputo of New York, the junior Republicans. Both have steadfastly urged that the committee move ahead with all deliberate speed, with Fenwick having been more moderate than the aggressive Caputo.

In between are the swing votes, including those of Preyer and Charles E. Bennett, Democrat of Florida and a longtime campaigner for ethical standards in the House. Representatives Lee Hamilton (D.-Ind.) and Albert H. Quie (R.-Minn.) have both sat quietly through most of the committee's public sessions and must also be considered undecided.

The political pressures on the committee are conflicting. In the Congress as a whole, those most eager to see the investigation completed soon, with the culprits identified and punished, are largely young Democrats who fear they may be hurt in next fall's elections. They are concerned that their

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Republican opponents can hit them with the charge that a Democratic Congress cannot or will not clean itself up. The Democratic Party may be vulnerable because senior Democrats are among those alleged to have taken illicit favors from the Koreans. Added to this are the Republicans who have called the Korean scandal the Democrat's Watergate and see it among the best election issues they may have next fall. On the other side are the senior Democrats who have contended that the scandal is more smoke than fire and ought to be let alone. As an official in the administration put it jestingly, in terms reminiscent of the Nixon White House's early statements on Watergate: "They see this as nothing more than a third-rate bribery."

So far the committee appears to have favored the Democratic leadership. Although Jaworski has been careful to say repeatedly that the committee is not interested in Korean political mores, that all the committee wants is the facts so that it can discover which congressmen broke the rules, the committee has focused on the Koreans rather than on the Americans. This was particularly evident during the three days of hearings it held last October. Flynt said then that those hearings would not touch on congressmen because "premature presentation of evidence relating to [the next phase of the investigation] holds a risk of defaming persons who may eventually be exonerated, and the rules of the House preclude the release of such untested information in open session."

Even so, no effort was made to protect the reputations of Koreans repeatedly named in the course of the hearings, some of whom were clearly accused of breaking American law. While a spokesman of the Korean government could have been given the opportunity to testify, the committee did not invite one. Yet the names of congressmen were assiduously excised from all testimony and documents, with a few exceptions. One was the result of a slip-up, when a former employee of Tongsun Park said he delivered a white envelope to the office of Otto Passman, then a Democratic representative from Louisiana, and picked up a gold watch in return. At another point, the committee staff gingerly brought in the name of Richard T. Hanna, the former Democratic representative from California who has been indicted for conspiracy, bribery, and illegally acting as a foreign agent.

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At this point in the hearing, Caputo objected, asserting, "I think we have been highly selective as to whom we defame or incriminate." After a testy exchange with Chairman Flynt, who tried to cut him off, Caputo continued: "I am disappointed that we have clearly made statements to defame and degrade Mr. Tongsun Park this morning. We have made statements as to numerous individuals, some American, some Korean, some members of Congress. I fail to see the

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purpose of restriction of information in the nature of testimony and questions." He was ignored by Flynt, who turned to the committee staff to resume questioning.

The impression that the Koreans are on trial has been enhanced, perhaps inadvertently, by another Korean investigation, that of the House subcommittee on international organizations led by Representative Donald M. Fraser (D.-Minn.). Fraser's charter runs only to looking into Korean efforts, overt and covert, to influence American policy. But during a recent hearing, his subcommittee deleted the names of congressmen, administration officials, scholars, and even journalists that a Korean operational plan listed as targets for "manipulation." Naming them would have carried no connotation of wrongdoing. But deleting them added to the impression that Congress is interested only in protecting congressmen, since many names of Korean officials came into the testimony.

Adding to that impression are the indictments obtained by the Department of Justice. Only one, which names Hanna, is against a former congressman. The other two are against Tongsun Park, the businessman and socialite, and Hancho C. Kim, a naturalized American citizen who lives in a suburb of Washington.

The fact is that the Ethics Committee has a good idea of which congressmen took what. According to one insider, they have "tons of evidence" of a few criminal offenses and many unethical actions.

WHETHER THIS IMPRESSION is correct or not, the fact is that the Ethics Committee has a good idea of which congressmen took what. According to one insider, they have "tons of evidence" of a few criminal offenses and many unethical actions. Some of this evidence is based, in part, on a questionnaire that about 770 present and former representatives were required to answer last summer. This questionnaire brought an estimated 115 congressmen under initial scrutiny. During the fall, the staff of the committee winnowed that number to about 50 sitting congressmen who, along with their staffs and associates, have been questioned further. (The committee has decided to drop the investigation of many former congressmen because it feels its authority in that area is unclear.)

Some congressmen's names have already been made public in one way or another. The indictment against Tongsun Park lists seven present and seven former congressmen as having gotten campaign contributions from Park in 1970, when the operation began.The seven still in the House are Udall, Democrat of Arizona, who got $300, and Melvin Price, Democrat of Illinois, Thomas Foley, Democrat of Washington, Eligio de la Garza, Democrat of Texas, John Murphy, Democrat of New York, and William Broomfield, Republican of Michigan, who got $500 each. Representative John Brademas, Democrat of Indiana and the House whip, got a $500 campaign contribution and rebates on fund-raisers held at Park's George Town Club in the amounts of $1700 and $2950. Representative John McFall, Democrat of California, was given cash, $1000 one time, $3000 another, plus a party. Former Representative, now Senator, Spark M. Matsunaga, Democrat of Hawaii, got a $1000 campaign contribution. Former Senators Joseph Montoya, Stuart Symington, and Harry Byrd got $3000, $500, and $500 respectively. Former Representative Albert Johnson, Republican of Pennsylvania, got $1000 in cash shortly after inserting a pro-Korean statement into the *Congressional Record* at Park's request. Former Representative, now Governor of Louisiana, Edwin Edwards, got $10,000 in campaign contributions, and his wife got another $10,000.

The indictment of Hanna repeats some of the information included in the Tongsun Park indictment and adds new facts. Hanna is portrayed as an agent of the Korean government who was paid more than $100,000 by Park. (He has denied the charges.) Beyond that, the indictment reports that Representative Edward Patten, Democrat of New Jersey, did favors for the Korean government on three separate occasions at the request of Park or Hanna. It also reports that Melvin Price, who was once chairman of the Ethics Committee and is now chairman of the Armed Services Committee, submitted a pro-Korean statement at Hanna's request to a House subcommittee investigating the repression of human rights in Korea in 1974.

Hanna got several others to do the same. One of those who submitted such a statement defending the Koreans was Walter Flowers, a member of the Ethics Committee.

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There is more in the public record. Speaker O'Neill, for instance, was honored at two big parties given by Park. So were former Attorney General William Saxbe and the director of the Federal Bureau of Investigation, Clarence Kelley. Another member of the Ethics Committee, Thad Cochran, took a trip to Taiwan and Korea that was financed by the quasi-official Pacific Cultural Foundation of Taiwan.

The indictment of Hancho C. Kim does not mention congressional names, for reasons unknown. But it does report specific contacts with congressmen, and that information, plus more, presumably can be or has been obtained by the committee from the Justice Department.

There is no question that a considerable amount of specific information on the activities of U.S. officials is available to the Ethics Committee. None of the information on congressional behavior in the Park and Hanna indictments has been denied. The Ethics Committee, therefore, need only call in each congressman, ask him to verify the record, and to give his version of how he came by the money. Putting that data together with what has been collected from other sources, the committee must decide whether the congressman acted properly or not. In the early 1970s, it was legal for a congressman to accept campaign contributions from foreigners but not from agents of a foreign government. (It is illegal today to accept a contribution from any foreigner.) The crucial question is, Should the congressmen have known that Tongsun Park was a foreign agent, or should each at least have taken a closer look at the source of the funds since Park's reputation was then beginning to spread on Capitol Hill?

THE COMMITTEE, HOWEVER, HAS given little indication of when it expects to start deciding which congressmen, if any, have transgressed the bounds of constitutional and ethical behavior. Spokesmen for the committee offer several arguments for the slow progress.

To begin with, the House rules dictate that defamatory information against a congressman must first be heard in closed session with the accused given the chance to refute the allegations. That is a critical time, because if the majority of the committee believes the congressman, they can vote not to make the allegations public. Thus the electorate will never be able to judge for itself whether a congressman was unjustly accused and should have been exonerated, or was indeed guilty of an indiscretion or worse.

Secondly, the committee contends that the inquiry must be conducted in what it calls logical sequence. That means first determining what the Koreans did, then moving on to discover what illicit favors the Americans took. Attorneys for the committee have also argued for what one calls the "cookie jar theory." It holds that the investigation should be completed before any congressman faces a committee hearing. Otherwise, the committee may catch him only with his hand in the cookie jar and miss a more serious violation. In addition, some members of the committee argue that going into public hearings too soon may cause the investigators to overlook clues on one congressman that picked up from the investigation of another.

Among the more vigorous arguments Flynt and Jaworski have made is that the South Korean government has not cooperated with the committee. Seoul has withheld from the committee any testimony from Tongsun Park; from former directors of the KCIA, which coordinated the influence-buying operation; from former Korean ambassadors and KCIA station chiefs in Washington who executed the plan; and from other officials.

The Korean government's grudging and restricted surrender of Park to the Justice Department served only to infuriate Flynt and Jaworski. They contended that questioning Park in Seoul would be next to useless, as he would be under the eye of Korean officials. They further charged that the Justice deal with Seoul would delay the committee's interrogation of the witness and would probably cut off chances of getting other vital information. The chairman and the special counsel have steadfastly contended that the committee would be unable to do a thorough job without those firsthand witnesses. That has led skeptical observers here to wonder whether the committee was preparing to lay the blame on the Koreans for its failure to pursue the inquiry successfully.

An obstacle not discussed publicly—but which insiders note privately—has been the reluctance of the intelligence community and the Justice Department to share information with the committee, or if they do share it, to permit it to be used publicly. The intelligence agencies say they don't want their sources and methods exposed. The Justice Department says it doesn't want to jeopardize its cases by premature publicity.

But there are other reasons for the committee's sluggish pace, some of them subtle. Perhaps the main one is attitude, which shows up in many ways, great and small, in the chairman and among many of the members. Those on the committee are quick to defend their procedures as fair and responsible. But that sense of fairness seems confined to congressmen and does not extend to others, particularly to Koreans.

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During the October hearings, James Quillen, who was in a delegation on a trip to Korea arranged by Park in 1971, interrupted the testimony of General Kim Hyung Wook, a former director of the KCIA. Quillen commented: "Well, I think it's good for these facts to come out, because I can't imagine a stable government like South Korea embarking on such a program to a country that has supported always and still supports the government of South Korea against the government of North Korea.

"To me," Quillen continued, "the semblance of offering favoritism, offering money, offering other gratuities, to me, just stinks to high heaven." Quillen did not comment on the ethics of American congressmen who might have taken the Korean offers of money or other favors.

The underlying protective attitude popped up in other

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ways. After former Representative Passman's name inadvertently came out in connection with the white envelope delivered to his office and the gold watch picked up, Bennett came to Passman's defense. He asked the witness: "Since I used to know Mr. Passman quite well, do you know that Mr. Passman for many, many years has had a hobby of collecting antique watches?" The witness answered: "Frankly, I can say I don't know about Congressman Passman."

AS IN ANY CONGRESSIONAL COMmittee, it is the chairman who sets the tone—and that, for Flynt, has been colored with reluctance from the start of his tenure in 1975. He once observed that "it is never pleasant or easy to sit in judgment of one's peers," a comment with which few will disagree. His attitude became evident during the investigation of Representative Robert L. Sikes (D.-Fla.) for alleged conflict of interest. Flynt had to be urged by 45 members of the House to undertake the inquiry. Then, after a committee vote to reprimand Sikes, Flynt was upset over the publicity it generated. "The committee has no intention," he said, "to dramatize evil for unsated appetites of writers or readers, broadcasters or listeners."

In the early days of the Korean investigation, Flynt was again in no hurry. He called meetings of the committee infrequently and made clear that the Korean inquiry was well down the ladder of priorities for his time and attention. Some other members felt the same. When Flowers came out of a closed committee meeting one day, a newsman in the corridor asked him why the members weren't spending more time on the investigation. "We've got better things to do around here," Flowers snapped as he walked off.

The lethargy in the committee prevailed from December 1976 until July 1977, when it became too much for Philip A. Lacovara, the smooth but dynamic special counsel who preceded Jaworski. When Lacovara prodded Flynt and the committee, the chairman flared up and stiffly reminded Lacovara that he was an employee of the committee and neither its chairman nor a member. That spoke volumes for Flynt's attitude toward independent inquiry. Flynt then threw back a bill for Lacovara's legal fees, forcing him to resign as special counsel. With the integrity of the House in jeopardy, Speaker O'Neill stepped in to take the investigation itself away from the committee and to hand it to Jaworski.

Flynt is clearly aware of the doubts about his willingness to push ahead. His opening statement in the October hearings was touchy and defensive: "During the course of this investigation," he said, "we have received unsolicited advice and suggestions from many sources. Since such sources have no responsibility for the final end product of this investigation, they could enjoy the luxury of inaccuracy, recklessness, and occasional falsehood which we who shoulder responsibility cannot afford.

"The qualities of a good investigation," Flynt continued, "are as elusive and impossible to define as the qualities which mark a gentleman. Those who need to be told would not understand anyway."

Flynt's sense of fairness came into question in several instances. He and the staff repeatedly cautioned witnesses not to mention the names of congressmen in their testimony. Yet before the hearings opened, the staff issued a list of the names of 24 Koreans as a help in identifying them. Throughout the testimony, the names of Koreans from President Park Chung Hee down through senior officials of the Korean government, ambassadors, intelligence officers, agents of influence, and even hapless couriers were brought up. But none was given the opportunity to defend himself.

A Korean businessman named Choi Che Yung was identified as the trustee of $400,000 in funds given him by a senior officer of the KCIA, to be safeguarded in the United States. Choi, who lives near Washington, was not called to give his version of events. He later sought help from American newsmen to make known his claim that he was not an agent of the KCIA, that he had to do the KCIA's bidding or risk retaliation, and that he had suffered a loss of standing in his community because of the one-sided testimony.

As in any congressional probe, it is the chairman who sets the tone—and that, for Flynt, has been colored with reluctance from the start. He once observed that "it is never pleasant or easy to sit in judgment on one's peers."

In another departure from accepted legal practice, Nan Elder, secretary to Representative Larry Winn (R.-Kan.), was called to testify that the former Korean ambassador, Kim Dong Jo, had offered Winn money in 1972. Elder, who later returned the money on Winn's instructions, was not asked questions that would occur to a beginning law student. For instance, she was not asked whether she had actually seen Ambassador Kim hand the money to Winn. (She evidently had not, because she testified that the office door was closed during the time the gift was allegedly made.) Nor, in violation of basic legal procedure, was Winn called to corroborate Elder's testimony. Thus Winn was not asked why he took the money in the first place, put it into a desk drawer, and thought to return it only later. Winn declined to answer those questions later, when they were put to him by a newsman.

It may be a small thing, but Flynt's attitude toward Korean and American witnesses was markedly different. The Koreans, some of whom ran the very real risk of vengeance by the KCIA, were curtly dismissed, some without so much as a thank-you. But the wives of two congressmen, who testified that each was given money during a visit to Seoul and that their husbands had returned it, were excused after effusive thanks from Flynt and other members of the committee. Flynt, ever the gentleman, also made sure that he got down from his chair to escort the ladies from the hearing room.

As the hearings drew to a close, Peter White, who is Jaworski's articulate deputy special counsel, summed up: "You have direct testimony, some of it extremely vivid, of the formulation and effectuation of a sophisticated, well-defined plan to exert influence on American officials. The question of whether these things took place is very simply a dead issue.

"The questions that do remain for this committee," White added, "involve the conduct of American officials."

The real question is, When will the American people get the answers to those questions? ❏

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Jimmy Carter is proposing a new secrecy order that is even worse than Richard Nixon's. And Congress is threatening to give it real teeth.

TOWARD AN OFFICIAL SECRETS ACT

By DAVID WISE

THROUGHOUT THE LONG, hot summer of 1977, a group of middle-level officials of the Carter administration from the Pentagon, the CIA, the State Department, and other agencies labored, in secrecy, in the offices of the National Security Council across the street from the White House. Their task was to revise the government's system for keeping secrets.

By September, the group's efforts had materialized in the form of a 32-page draft entitled "National Security Information and Material." It was designed to replace the existing executive order on classification and secrecy, issued in 1972 by Richard Nixon.

For those who had hoped that in the post-Vietnam, post-Watergate era, a president dedicated to open government would substantially reduce the mountains of rubber-stamped secret paper generated daily in Washington, the draft order came as a bitter disappointment. Nine organizations, including the American Civil Liberties Union, Common Cause, and Ralph Nader's Public Citizen Litigation Group, joined forces to deliver a sharp critique to the White House. The Carter draft was not appreciably different from the Nixon order, the groups said; in several respects it was "even worse."

The criticism from the president's Democratic colleagues on the Hill was more muted, but no less disapproving. Richardson Preyer, the soft-spoken southern gentleman from Greensboro, North Carolina, who is chairman of the House subcommittee on government information, took the floor and pronounced the proposed order "weighted toward secrecy," and "notably deficient in detecting and correcting abuses of the system." Moreover, said Preyer, the draft order contained some provisions that would have the effect of "promoting secrecy, rather than openness." Senators Joseph R. Biden, Jr., of Delaware, and Edmund S. Muskie of Maine, who head subcommittees studying the classification system, wrote a joint letter to the president. The Carter draft, they concluded, signified "business . . . as usual." One Senate committee aide put the matter more succinctly. "The draft order," he said, "was a disaster."

Despite these expressions of dismay, the Carter draft—since revised in preparation for the president's signature—should not have come as any great surprise. John H. F. Shattuck, director of the Washington office of the ACLU, noted that "early in 1977, during the Hussein flap, the first signals came out from the administration indicating that they would go the wrong way on secrecy." Those signals were emitted in February of last year, less than a month after President Carter took office, when Bob Woodward reported in the *Washington Post* that the CIA had paid Jordan's King Hussein millions of dollars over a 20-year period.

Carter's reaction was to defend the CIA ("I have not found anything illegal or improper") and to warn that such leaks can be "extremely damaging to our relationship with other nations." The president also said he was "concerned about the number of people who now have access" to government secrets. Soon afterward, Carter told a news conference he wanted "tighter control over the number of people who have access to material that's highly sensitive. . . . We've already initiated steps to that degree. And we'll be pursuing it."

From the start, therefore, Carter adopted a classic prosecrecy position, consistent with that of his modern predecessors and oddly insensitive, not only to his own campaign promises, but to the lessons of recent history.

For it is largely through the system of official secrecy, embodied in executive orders issued or enforced by the last seven presidents, that the government has all too often been able to mislead the American people and to conceal important foreign policy information from the public. In the case of the Vietnam War, the dimension of the deception was revealed by the publication of the Pentagon Papers, which had been classified "Top Secret-Sensitive." The Nixon administration reacted by at-

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tempting to restrain the publication of the Pentagon Papers and by indicting and harassing the former official who had leaked them, Daniel Ellsberg.

Watergate brought dozens of new examples of how the government had used official secrecy to conceal high crimes and misdemeanors. The logs of the Nixon-Kissinger wiretaps of 17 White House aides and reporters were, for example, classified "Top Secret, Group 1." At one point Nixon and his advisers even attempted to classify a burglary. On the White House tapes, it is suggested to Nixon by John Dean that the burglary of Ellsberg's psychiatrist might be explained on national security grounds. "National Security," Nixon exclaims. "We had to get the information for national security . . . the whole thing was national security."

"I think we could get by on that," Dean replies.

In the wake of Watergate, the hearings of the Senate Intelligence Committee headed by Senator Frank Church revealed a horrendous series of abuses by the CIA and the FBI, ranging from assassination plots to drug and mind-control experiments, to break-ins, wiretaps, and illegal mail openings. These, too, were more often than not concealed behind secrecy stamps, the better to be hidden from the American people. Or sometimes from other bureaucrats. Former CIA director Richard Helms, who recently joined the long line of former federal officials convicted of crimes, but who will not, thanks to a plea bargain, have to wear his badge of honor in Allenwood or Lompoc, testified to the Church committee in 1975 that the presidential order requiring the destruction of the CIA's deadly shellfish toxin and cobra venom might not have been shown to the appropriate CIA official (who failed to destroy them) because the order, a National Security Council Decision Memorandum (NSCDM), had been classified "Secret."

ALTHOUGH THE SECRECY system was used to conceal vital information from the public during Vietnam and Watergate, and to mask the abuses of constitutional rights by the intelligence agencies, there remains a strong reservoir of support for secrecy within the bureaucracy, which is secretive by nature; in Congress; and among the many members of the public who tend to equate secrecy with national security. It is an issue on which it is easy "to manipulate public opinion," Shattuck points out. "The abuse of power brought out by the Church committee is not related by most people to the issue of secrecy. People shocked by abuses are not shocked by secrecy."

Although the abuses of the classification system are well known by now, overclassification of national security information remains a way of life in Washington, with "Top Secret" authority a badge of prestige among the policy makers. (In the intelligence world, there are even many classifications *above* Top Secret, the very names of which are themselves classified. Access to these rarefied, Special Intelligence categories carries even greater prestige.)

Nine organizations joined forces to deliver a sharp critique of the Carter administration's secrecy plan. The Carter draft was not appreciably different from the Nixon order, the groups said. And in several respects it was "even worse."

According to figures compiled by the Preyer subcommittee, the executive branch classified 4.5 million documents in 1976. But since a document is often many pages long, the subcommittee staff estimates that the number of classified pages could easily be 10 times greater, or 45 million pages. I have estimated there may be as many as 100 million classified documents in active government files. But nobody really knows. The Pentagon's chief classifier told the House government information subcommittee a few years ago that the Defense Department had more than a million cubic feet of classified documents—the equivalent, if stacked high, of 2297 Washington monuments. The oldest of these was a 1912 war contingency plan.

Ludicrous examples of classification abuses abound. During World War II, the Army actually classified the bow and arrow; it was included in a report on "silent flashless weapons." During the Eisenhower administration, the Pentagon classified the fact it was sending monkeys into outer space, although one of the macaques was on full view at the Washington Zoo, along with a plaque informing visitors that he had soared to a height of 200,000 feet. Even Richard Nixon, whose devotion to secrecy was indisputable, complained that the menus for the official dinners for visiting heads of state arrived at the White House stamped "Top Secret." And secrecy costs the public literally hundreds of millions of dollars a year; a 1972 study by Congress's General Accounting Office concluded that the Pentagon and three other departments alone spent $126 million annually on classification and related security.

ALTHOUGH VARIOUS SECRECY labels have been used by the military throughout American history, it was not until 1951 that President Truman issued the first executive order extending a formal system of secrecy to civilian departments of the government. The Truman order allowed *any* agency to classify national security information. Two years later, Eisenhower issued a revised executive order that provided the basic framework for the current system. Kennedy added provisions for declassifying some documents. Then in 1972, in the wake of the controversy over the Pentagon Papers, Nixon issued a new executive order. While it made a number of changes, it did not depart drastically from the basic secrecy structure.

The Nixon order retained the three standard security stamps—Top Secret (for information which, if disclosed, "could reasonably be expected to cause exceptionally grave damage to the national security"; Secret (for which the phrase is "serious damage"), and Confidential (just plain "damage"). Nixon's order created something new, a General Declassification Schedule, or conveyer belt, that permitted some Top Secret documents to be declassified automatically after 10 years. But documents could be exempted from the conveyer belt and never placed upon it for any one of four reasons, the third of which, "essential to the national security," was so broad as to permit continued secrecy whenever it suited the classifier. Nixon's order also provided that an exempt item might be reviewed for possible release after 10 years, provided a citizen could describe the document in sufficient detail as to en-

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able the department to find it easily—a neat trick for a document that is secret in the first place. Finally the Nixon order called for declassification of "all" documents after 30 years—except for those "essential to the national security." The bottom line was that if the government wished to keep a document secret, it could do so forever.

Against this background, the Carter administration's secrecy managers began meeting last summer to hammer out a new executive order. The interagency ad hoc committee was formed in response to a PRM (pronounced "prim"), or presidential review memorandum, issued on June 1. The members included representatives of the NSC, the Defense Department, the Joint Chiefs of Staff, the CIA, the State Department, the Energy Research and Development Administration, the Justice Department, the Office of Management and Budget, the president's domestic policy staff, the Interagency Classification Review Committee, and the code-breaking National Security Agency (which, as a subunit of the Defense Department, sat as an observer with no vote).

"Once it was decided which agencies would be asked to draft the secrecy order," said one disenchanted participant, "the outcome was settled." It became rapidly clear that among the drafters only a Gang of Four advocated major surgery on the existing classification system. They were Rick Neustadt, of Carter's domestic policy staff, Eric Hirschhorn, of OMB, Newal Squyres of Justice, and James O'Neill of the National Archives. Arrayed against them were the veteran classifiers whose bureaucratic interests traditionally favor secrecy—Arthur F. Van Cook, the deputy assistant secretary of defense for security policy, Donald Paschal and William Allard of the CIA, Robert W. Wells of the ICRC, and Robert Gates and Gary Barron of the NSC.

Some of the traditionalists did suggest improvements in the Nixon order; the Pentagon's Van Cook, for example —much to the dismay of the CIA —successfully insisted that the Carter draft require classifiers to indicate which portions of documents actually contain classified data. In general, however, the national security agencies opposed anything more than cosmetic changes. "A president who wanted openness," said one observer, "set the cat to guard the cream."

The Gang of Four received some informal advice from Morton H. Halperin, a leading opponent of government secrecy and himself a victim of the Nixon-Kissinger classified wiretaps. But it was a losing struggle, with the results preordained.

The proposed executive order somehow escaped the administration's *diktat* requiring clarity of language in government documents. It was an almost incomprehensible maze, crafted in insurance-policy prose. Boiled down, however, the draft order retained the three traditional levels of classification and required that documents be declassified within six years (instead of within 10, as under the Nixon order). But then came the exceptions: When there is a "need, directly related to the national security," documents may, after all, be classified beyond six years, in fact up to 20 years. After that, agency heads may continue to extend the classification of many documents for any number of 10-year periods. Thus, the bottom line of the Carter draft, as in the Nixon order, was that the government could keep a document classified indefinitely.

The Carter draft should not have come as any great surprise. As the head of the Washington office of the ACLU noted, the Hussein flap in 1977 was a signal indicating that the administration "would go the wrong way on secrecy."

There were, of course, some improvements in the Carter draft: Six years is less than 10, and unlike the Nixon order, which required a citizen to wait 10 years before requesting a document, the Carter draft permits a member of the public to request a classified document at any time. Whether he gets it or not is another matter.

The Carter draft also eliminated the General Declassification Schedule —the Nixon conveyer belt—because, according to Rick Neustadt, the four criteria for exempting information from the conveyer belt were so broad as to invite evasion. "The four reasons were meaningless," he said. "XGDS (Exempt from the General Declassification Schedule) is now a rubber stamp." There is some statistical support for Neustadt's argument; in 1976, according to the partial data available, 60 percent of classified documents never got on the automatic declassification conveyer belt.

Overall, the ACLU's Shattuck found the Carter draft "worse than the Nixon order" in a number of important respects. Not the least of these was a provision encouraging government agencies to require secrecy agreements from their new employees. Typically, these agreements require employees never to disclose classified information learned on the job. The CIA used such an agreement to censor the book *The CIA and the Cult of Intelligence*, coauthored by Victor Marchetti, a former CIA official, and John Marks.

In all, the White House was deluged with 504 comments on the Carter draft, which had been circulated informally to interested groups and individuals and to the appropriate congressional committees. The ad hoc committee went back to the drawing board, with the work of rewriting the draft order coordinated by Neustadt and Bob Gates of the NSC staff.

Sometime early this year, perhaps in February, the revised draft is expected to be ready for the president's review and signature. The drafters indicated that they would take into account some of the comments received from outside groups, tighten the language of the order, and remove a number of ambiguities. But no one predicted radical revisions; unless Carter suddenly shifts his stance, the prospect is that the secrecy system imposed on the public at the height of the Cold War will continue without any really meaningful change.

BUT AS THE DEBATE OVER the new Carter order recedes, a more ominous prospect may gradually be coming into focus —secrecy legislation that would establish classification categories by law and replace the existing system.

The presidential executive orders on secrecy in effect since the Truman administration are just that—executive orders that apply to employees of the federal government but not to the press or others outside the government. Yet such is the mystique of "national security" and the words "Top Secret,"

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that the average citizen—even many news reporters—would hesitate to accept such a document from an official. But the law does not, in general, prohibit the possession or publication of classified information as such.

The nation's espionage laws were originally passed in 1917 to catch German spies. They were not meant to catch newspaper reporters or government officials who leaked information to the press. In general, therefore, the espionage laws refer not to classified information but to information "relating to the national defense." When the government seeks to use the espionage laws to enforce the classification system and punish leakers, it must prove that a particular classified document fits the definition contained in the law. It is not enough to show that a bureaucrat has stamped the document. (The only narrow exceptions to this are sections of the law prohibiting the unauthorized use of "classified information" about codes or communications intelligence, or the passing of classified information by a government official to foreign agents or Communists.)

There is, in short, a gap between the classification system and the espionage laws. If it were otherwise, if the leak to the press of a classified document, for example, were automatically a crime, the government would be tempted to classify everything, and its control over information affecting our lives would be total. Over the years there have been pressures, particularly by the CIA, to close this gap and build a bridge between the classification system and the spy laws, so that unauthorized possession of classified information would create automatic guilt.

This was precisely the concept embodied in S.1, the bill to revise the entire federal criminal code, as it was introduced by the late Senator McClellan in 1975. Until the offending provisions were eliminated in the spring of 1976, the bill contained language making it a crime for officials to transmit "classified information" to unauthorized persons, such as journalists. When reintroduced as S.1437 in the 95th Congress last May, the bill omitted this provision and simply left intact the existing espionage laws. The bill, and a companion measure in the House, is before the Congress this year. By general agreement, no attempt to revise the espionage laws is now likely in the course of revising the federal criminal code. But the issue is merely dormant; in time, Congress will undoubtedly consider changing the antiquated spy laws, which are admittedly a hodgepodge of ambiguities.

The CIA, meanwhile, has continued to espouse legislation to make it a crime to leak classified intelligence information. Then, in prosecuting cases, the government would have to do no more than prove that the information in question was rubber-stamped as intelligence data. As a CIA legal study a decade ago admiringly put it, such a law "would be a step in the direction of 'crown privilege,' which is the basis of the British Official Secrets Act."

Sometime this year the revised draft is expected to be ready for Carter's signature. But unless the president suddenly shifts his stance, the prospect is that the secrecy system imposed on the public at the height of the Cold War will be kept intact.

In 1976, at the urging of the CIA, President Ford sponsored just such a bill: In addition to outlawing intelligence leaks, it provided for federal court injunctions whenever the CIA suspected that a present or former government official was about to publish something it did not like. Under the proposed law, Victor Marchetti could have published only at the risk of going to jail; and it is unlikely that former CIA agent Frank Snepp would have dared to publish his recent book, *Decent Interval*, accusing the agency of abandoning its allies in Vietnam. And under such a law, the chances would be greatly reduced that a CIA official would risk telling a Seymour Hersh about the agency's illegal domestic spying.

In an executive session of the Senate Intelligence Committee on February 22 of last year, President Carter's CIA director, Admiral Stansfield Turner, replied "Yes, sir" when asked if he favored criminal penalties for leakers of sensitive information. At a breakfast meeting with reporters a few weeks later, he spelled out his support of criminal sanctions for those who disclose classified information. But Vice President Mondale was by then on record as opposed to criminal sanctions for leakers. Carter, seeming to side with Mondale, declared he would like to "minimize" (but he did not necessarily rule out) the use of criminal penalities for the disclosure of classified information.

Admiral Turner backpedaled somewhat after that, but the idea cannot be far from his thoughts these days, what with "Beat Navy" graffiti sprouting on the walls of Langley as a result of those curt dismissal notices he sent to some 800 clandestine CIA officers. The fear in the CIA is that Turner may have 800 Frank Snepps on his hands, at least some of whom may decide to sell their memoirs to New York publishers.

PRESSURE FOR TIGHTER secrecy legislation is not surprising when it comes from the CIA or the Pentagon or the NSA. What is perhaps more alarming is that—in a misguided reaction to the Carter draft—some liberals and moderates, who genuinely favor a greater flow of information to the public, are now talking about the need for secrets legislation in place of the current system of classification by executive order. For example, Senators Biden and Muskie concluded their letter to the president by declaring: "We view the draft executive order with reservations as to its ability to carry out your objectives for openness. Rather, it seems to underscore the *need for the enactment of a legislative basis for the classification system. . . .*" (Emphasis added.)

Similarly, Congressman Preyer praised and placed in the record a memo by the staff of the House government information subcommittee. The memo concluded that in the absence of a better executive order, the subcommittee should consider a secrets bill "to provide a security classification system by statute."

Preyer says he has not made up his mind on the issue, "but it does seem a statutory basis might be desirable." He added: "I think we'll want to hold hearings. There isn't any statutory basis for an executive order on classification. It's just based on the president's general powers as conductor of foreign affairs." In considering the subcommittee's course of action, Preyer may be influenced by the panel's conclusions after its series of hearings on secrecy in 1971 and 1972. The subcommittee, then headed by Representative William S. Moorhead of Pennsylvania,

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strongly recommended a secrets bill to establish a classification system by statute, a recommendation endorsed by the parent House government operations committee.

Senator Biden's subcommittee on secrecy, disclosure and classification, a unit of the Senate Intelligence Committee, is also charged with studying the secrecy isue. Its official responsibility is "to frame statutes" and encourage the development of executive branch regulations defining what is and what is not "a legitimate national secret." Any secrets bill would also have to be considered by Senator Muskie's subcommittee on intergovernmental relations. The subcommittee's counsel, Jim Davidson, does not perceive "a lot of momentum" for secrets legislation at present.

New impetus for secrecy legislation has come, however, in a recently published book, *Top Secret: National Security and the Right to Know*, by Morton Halperin and Daniel N. Hoffman. Halperin argues that the presidential secrecy system simply hasn't worked. He advocates a law that would, in general, classify details of advanced weapons systems, military operations, diplomatic negotiations, and intelligence methods. All other information would be made public unless officials decided the damage to national security outweighed "the value of the information for public debate." Halperin's proposal also includes a review board to administer the new system.

Secrets legislation has been introduced in the past; in 1973, for example, Representative Moorhead sponsored a bill to control classification and to establish a review board. Senator Muskie has also previously introduced legislation to create a disclosure board to manage the nation's secrets.

There is, however, no assurance that in legislating secrecy, Congress might not create a more restrictive, rather than a more open system. One has only to recall the actions of the House in voting to suppress the Pike committee report, which documented widespread intelligence agency abuses and would never have seen the light of day without the intervention of Daniel Schorr.

But an even greater danger in the proposals for a secrets bill is that Congress will attach criminal sanctions for violations of that law. Even if such sanctions were not initially part of the law, they could easily be added on at a later time. Congress does not often create laws without penalties for breaking them. "I don't think I have ever seen a prohibition law with no sanctions," the ACLU's John Shattuck noted. "I think legislation would be a mistake. It would be more binding and more chilling than an executive order."

A review board, usually included in proposals for a secrecy law, could easily become a board of censors. If such a board were created by statute, and a *New York Times* reporter received some future equivalent of the Pentagon Papers, he might well be under strong pressure, perhaps even from his own editors, to clear the material with the board before publishing it.

The danger of such legislation, in short—however much its sponsors are dedicated to freedom of information—is that it could create something like a British Official Secrets Act in America.

The British act is sweeping in scope. It prohibits officials of the crown from communicating *any* information to unauthorized persons, even if the information does not relate to national security. It also bars unauthorized persons from receiving official information. If Congress enacted a secrets bill with criminal sanctions, it would thus parallel the British act, at least in the area of classified information.

Covering diplomatic or military affairs in Washington is only possible if reporters are able to talk freely and confidentially to their sources. Even if an American secrets bill contained only administrative penalties—such as suspension, fines, or dismissal for employees who leaked classified information to the press—the law would undoubtedly have a chilling effect on the flow of information to the governed. The Nixon order already directs department heads to take "prompt and stringent administrative action" against leakers, and the Carter draft even spells them out ("reprimand, suspension without pay, removal, or other sanction"). But including these provisions in a law would be certain to an even greater degree to inhibit "whistleblowers"—officials determined to expose corruption or other government wrongdoing—or others who might be inclined to talk to the press. It might even encourage the government to bring suits for money damages against employees who leaked.

There is a good deal of hypocrisy about secrecy. The same government officials who protest the loudest about leaks of sensitive information do not hesitate to release classified data when it suits their policy purposes. Indeed, the entire secrecy system remains a sham as long as official "authorized" leaks occur daily, and as long as presidents and lesser officials continue to use classified information in their memoirs. At present, classified information denied to the American people when it is relevant to their welfare is later being sold to them between hard covers by their elected or appointed officials. A lot of declassification seems to take place on the way to the bookstore.

IF SECRECY REFORMS CANNOT be achieved by executive action, there may nevertheless be a certain virtue in the untidiness of the present system. At least there is not now any general, across-the-board statute providing that the leaker of classified information go to jail. All that could change, however, if Congress decides to legislate secrecy.

A more useful area of congressional action—although, again, not without risks—would be the revision of the outmoded espionage laws to make clear that they apply only to spies, with intent to injure the United States, and not to officials who tell secrets to reporters. It is true that up to now, no official who has leaked a classified document to the press, and no reporter who has published one, has been convicted of a crime. But the government *could* attempt to apply the espionage laws to officials and reporters at any time. It did so in the Ellsberg case; less well remembered is the fact that a federal grand jury also investigated, but did not indict, Neil Sheehan, the *New York Times* reporter who obtained the Pentagon Papers.

There is, unfortunately, no simple formula for ending the secrecy mess. Nor are the prospects encouraging. Six years after the government sought to suppress the Pentagon Papers, reporters and their sources still risk prosecution for espionage; a president who campaigned for open government has apparently opted for secrecy as usual; the CIA wants to jail leakers; and some liberals, in exasperation, are pushing for a legislative solution that could, ironically, metamorphose into an Official Secrets Act. It was Nixon's lie that he covered up the Watergate burglary for reasons of national security that ultimately forced his resignation. But there is small comfort in this. The nation seems not to have understood the lesson.

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DISPATCHES, by Michael Herr. Alfred A. Knopf, 260 pp., $8.95.

Vietnam as literature

PHILIP CAPUTO

THE VIETNAM WAR MAY have been the most documented conflict in our history. The number of words written about it in books and articles probably exceeds by several million all the bullets, bombs, and shells expended in it. To the printed word one would have to add the reports and commentaries broadcast on television and radio: thousands of scripts, miles of film footage. Almost all of the chronicling has been done by journalists and is therefore characterized by the quality that ultimately distinguishes journalism from art, namely, timeliness as contrasted to timelessness. Certainly the very best of these works, books like Frances Fitzgerald's *Fire in the Lake* and C. D. B. Bryant's *Friendly Fire*, as well as documentaries like *A Face of War*, will have a fairly long life. It's my opinion, however, that their considerable merits are informational rather than artistic in nature. They *tell* us about Vietnam, or some aspect of it, but they do not *show* us war itself; nor do they seek to find in the Vietnamese conflict those truths that can be found in all wars.

Considering all the books written about the Indochina disaster, it's time to distinguish between those that are literature and those that are not. I'm getting rather tired of hearing, each time a new Vietnam book comes along, phrases like "it tells us what it was really like." By this time we all know what "it was really like": it was really awful. In that sense Michael Herr's *Dispatches* tells us nothing new—but that isn't important. What's important is that Herr *shows* us what war is like, that he tells the old, old story of men at war in a way that transcends the present and touches the universal. And Herr, though he was in Vietnam as a correspondent for *Esquire*, is more an artist than a journalist.

The everlasting truths about combat—death, the mystical bond of comradeship, the strange joy young men feel before their first experience of battle, the terrible loss of youth they suffer after they've experienced it, fear and the capacity of the human spirit to overcome it—have traditionally been best expressed in poetry and fiction. Occasionally an intensity and truth of emotion equal to the best novels has been achieved by factual memoirs. Most of these were products of that most appalling of all conflicts, World War I. Here I'm thinking of Guy Chapman's *A Passionate Prodigality* and Robert Graves's *Goodbye to All That*, both of which will last a very long time. In American nonfiction, Mark Twain's satiric account of his brief, absurd service as a Confederate irregular, *The Private History of a Campaign That Failed*, is still as true to life as it was when written a century ago.

The Vietnam War has, for some rea-

NORMAND COUSINEAU

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son or other, so far produced very little literature that ranks with the writing done about previous conflicts. As far as I know, there have been only two good novels: Richard Roth's *Sands in the Wind*, a fine book that never received the recognition it deserved; and Larry Heinemann's *Close Quarters*, whose descriptions of combat and the emotional maiming soldiers suffer in it are among the best I've read anywhere. Playwright David Rabe has turned his Vietnam experiences into three acclaimed plays, the best known of which is *The Basic Training of Pavlo Hummel*. I think *Dispatches* can now be added to that brief list.

HERR SPENT ABOUT TWO years in Vietnam, with a carte blanche from *Esquire*: He was pretty much allowed to do what he wanted and go where he pleased. Thus freed from the pressures of daily deadlines, he was able to perceive the war in a totally different light from that of the ordinary journalist, compelled on schedule to glean from the conflict a few facts and then record them in the sucked-out, dried-up prose news editors are pleased to call objective writing. It is to Herr's credit that he took full advantage of this freedom. He brought to his assignment a poet's sensibilities, a wonderful ear for the crazed dialogue of the combat soldier, and no small amount of personal courage.

Based on the articles he wrote for *Esquire*, Herr's book covers some of the war's bloodiest battles—the siege of Khe Sanh and the contest for Hue during the Tet offensive. It also gives some vivid portraits of the "routine" firefights whose obscurity in no way diminished their impact on the men who experienced and survived them.

The reader finds wonderful writing throughout. Take this sentence from Herr's record of the street-fighting in Hue: "Between the smoke and the mist and the flying dust inside the Citadel, it was hard to call that hour between light and darkness a true dusk, but it was the time when most of us would open our C rations."

Only someone with an artist's gift could have written that. The first part of the sentence, which appears in a section of the book called "Hell Sucks," is an almost Dantean vision of hell, neatly counterpointed by the banality of opening a can of C rations. *Dispatches* is full of such gems. In the paragraph preceding the sentence just quoted, Herr says of the stench of death:

"It held to the lining of your nostrils and worked itself into the weave of your fatigues, and weeks later, miles away, you'd wake up at night and it would be in the room with you."

Those words lunged off the page at me. Having smelled that stink many times myself, too many times, I wanted to shout, "That's it! That's exactly the way it is!"

*HERR ALSO REVEALS HIM*self as an artist in his characterizations of the men and in his ability to pick up the subtleties that mark changes in their relationships. His account of Khe Sanh, for example, shows us the dreadful, degrading daily existence of the marines who endured the siege. It shows us the little things that bound them together as well as the little things that broke those bonds. We are shown two riflemen, a white named Mayhew and a black nicknamed "Day Tripper." They are close friends until

Herr saw the war in a quite different light from other journalists. He brought to the task a poet's sensibility, an ear for the crazed dialogue of the combat soldier, and no small amount of personal courage.

Mayhew announces that he's extended his Vietnam tour because it will shorten his Marine Corps hitch by three months.

Day Tripper is so obsessed with the time left in his own tour that his "brain cells were arranged like jewels in the finest chronometer," and he is stunned by the news.

"How long you extend for?" he asks. Mayhew replies, "Just four months." Day Tripper responds, "Jus' four months. Tha's real fine, Jim. . . . Don't talk to me, Jim."

The conversation progresses. By faithfully reproducing the speech and gestures of the two marines, Herr shows us that a gulf has been opened between Mayhew and Day Tripper, and we know something has changed. Day Tripper cannot understand why Mayhew is so casual about time, and Mayhew cannot understand Day Tripper's obsession with time. We know their relationship will never be quite the same again.

Small vignettes like this, with seemingly unimportant details, remove Herr's book from the realm of journalism and elevate it to the realm of art.

He also has the courage to confront the ambiguities and contradictions of war and men at war. Herr does not allow his revulsion against combat to prevent him from seeing its lurid fascination. He does not, in the interests of some ideological argument, blind himself to the fact that combat soldiers can somehow be brutal and very human at the same time. About the marines he knew in Vietnam, he says:

They got savaged a lot and softened a lot, their secret brutalized them and darkened them and very often it made them beautiful. It took no age, seasoning or education to make them know exactly where true violence resided. And they were killers. Of course they were; what would anyone expect them to be?

The same could have been said about any of the men who saw action in those jungles, not just the marines. When I read that, I had a hard time believing Herr was a correspondent; for that was a truth about the personality of the fighting man usually glimpsed only by other fighting men.

MY ONLY QUIBBLE WITH Dispatches is its tendency to lapse into a hip, acid-rock, hallucinatory prose that sometimes sounds like imitation Hunter Thompson. Some reviewers have praised Herr for this, arguing that the war can be described with conventional language no more than it could have been won with conventional tactics. If they're talking about conventional, journalistic prose, I couldn't agree more; but if they mean that part of our language that endures through all ages and fads, then I totally disagree.

What I'm objecting to here is Herr's rather frequent use of words like "freakyflunky," and his tendency to string so many sentences together that he begins to sound hysterical. His free use of GI slang and Army jargon in the narrative also mars the book in the sense that it dates parts of it. There are passages that future readers will find incomprehensible—passages that are

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already incomprehensible to anyone unfamiliar with the peculiar vernacular of the war.

Herr is at his best when he gets away from the "freakyflunky," *Rolling Stone* school of writing. He is at his best when he writes about the "dreamy smiles of total abdication" seen on the faces of men who've been under fire too long, when he describes the odors inside a bunker as a composition of "the smell of urine, of old, old sweat, C-ration decay, moldy canvas and private crud," and when, in a passage that hauntingly echoes Conrad, he says of the Indochina forests, "The Puritan belief that Satan dwelt in Nature could have been born here, where even on the coldest, freshest mountaintops you could smell jungle and that tension between rot and genesis that all jungles give off."

Call it conventional or unconventional, writing like that can be described only as first-rate. It earns *Dispatches* a place among the best books so far written about Vietnam, as well as among the better books ever written about the human condition of war. ❑

MILTON AND THE ENGLISH REVOLUTION, by Christopher Hill. Viking Press, 544 pp., $20.00.

Milton's courage

ALAN RYAN

THIS SPLENDID BOOK IS NOT quite a "Milton Turned Upside Down" to set alongside Christopher Hill's earlier study of seventeenth-century radicals and heretics, *The World Turned Upside Down*, though it often comes close. Too much critical and biographical intelligence has been devoted to Milton, however, to make such a revolutionary project entirely feasible. But, it is certainly a "Milton Regained"—regained from literary critics who have begun by insisting on the primacy of the text and have ended by congratulating themselves on the historical ignorance that has made Milton inaccessible to them; regained from historians who have overemphasized Milton's hostility to democracy and have turned him into a conservative; regained, finally, for the ordinary readers who will find that this account of Milton's intellectual and political career sends them back to the three great epics with an enthusiasm that a more orthodox literary guide could not inspire.

Christopher Hill insists on the importance of putting Milton into his proper historical context. Even the friendly anachronisms of William Empson are gently chided: The latter's *Milton's God*, as Hill points out, praises Milton for launching an attack on Milton's God that the seventeenth-century Milton would simply have been unable to make. Empson could accuse God of playing a "grisly joke" on mankind, but that accusation is an essentially twentieth-century one. Milton recognized that the consequences of the Fall were certainly grisly enough, and that

Just or unjust, alike seem miserable,
For oft alike, both come to evil end.

Nonetheless, God was no spiteful practical joker; it was inconceivable that evil should indefinitely triumph over good; and if God spits in our faces, we must ask ourselves what faults in us have brought this upon us. Throughout his life Milton wrestled with the familiar, intractable difficulties of the Christian faith, and *De Doctrina Christiana* contained enough heresies to have its author hanged if it had appeared in his lifetime. As it was, it was published over a century after his death, and Milton's denial of the doctrine of the Trinity, his near-denial of the immortality of the soul, and his defense of a degree of human free-will which it is very hard to reconcile with divine foreknowledge, were no longer shocking. But they were the heresies of a man who believed, in the most painfully literal fashion, that he and all men were set on earth to work "as ever in my Great Taskmaster's eye," and who set himself to work out just what the Great Taskmaster demanded.

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IT IS THE MILTON OF BLAKE and Shelley, of Voltaire, Herzen, and Friedrich Engels that Hill offers us here. The grim Puritan of the school textbooks is replaced by the Milton who wrote in defense of ready divorce, who anticipated the romantics in declaring that loveless copulation inside marriage was a greater evil than unmarried lovemaking, and who dismissed casual adultery as a thing of no great consequence to the "wronged"

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In Samson Agonistes, Milton did not suggest that the blind Samson could singly save his people; but he could display courage, do what damage lay in his power to the enemies of the Lord, and remind his people of what freedom was.

party. Voltaire may have been striving for effect in saying that Milton was the first poet to praise romantic love, but he was not far from the mark.

The hostility to democracy that Milton undoubtedly did feel is played down by Hill, and rightly so, since Milton was not a principled defender of hierarchy, let alone monarchy; rather, he was a member of a revolutionary elite who suffered all the painful dilemmas that the twentieth century has made so familiar. The revolution could only be made and sustained by the regenerate; the masses would, like the Israelites, "choose them a captain back for Egypt." But the evils of "substitutism" were not something first perceived by Trotsky, and Milton saw the effects of a monopoly of power on the generals of Cromwell's army. If power could neither be entrusted to the masses nor to the elite, the only conclusion was that the English revolution had failed. Milton's political trust had always been placed in "the middling sort"—the English revolution was, after all, a "bourgeois" revolution that was politically radical and socially conservative—but even the middling sort concluded that "nothing but kingship can restore trade" and hurried to bend the knee to king and bishop. The restoration of Charles II in 1660 was not for Milton a return to normality; rather was it the reimposition of the Norman yoke and of Israel's bondage in Egypt, made the more galling by the general enthusiasm with which men rushed to put on their chains. The defender of the execution of Charles I, praised by Engels for providing the first articulate defense of the people's right to cashier their rulers, Milton doubted the people's ability to combine liberty and self-discipline, and their capacity to withstand the magical aura that clung about kingly power.

The last great epics were thus written against the grim background of the English people's failure to take the chance God had offered. It now seems almost crazy to think that the England of the 1640s might have been the new Israel. Perhaps it seems less crazy to an American who can see the impact of such ideas on eighteenth-century America, and perhaps not crazy at all to anyone who can sympathize with the view that the dialectic chose Petrograd in November 1917 as the place to begin the end of the prehistory of mankind.

But only against such a background can the temptation to despair, which Milton must have felt, begin to be appreciated; and by extension, only in this context can his courage be appreciated. He was, after all, not just blind and impoverished; he suffered imprisonment and was in danger of the gruesome death dealt out to traitors. He had defended in the face of all Europe the actions for which men were now being kidnapped and brought back to be disemboweled, their quartered bodies exhibited throughout the country.

It is the poise, the distance, the measured tone of the three great poems which suggest the depths of Milton's courage. More than once Hill returns to *Paradise Lost*'s portrait of Abdiel

> *unmoved,*
> *Unshaken, unseduced, unterrified*
> *His loyalty he kept, his love, his zeal;*
> *Nor number, nor example with him wrought*
> *To swerve from truth, or change his constant mind*
> *Though single.*

Even if Satan gets many of the best arguments both in *Paradise Lost* and *Paradise Regained,* it was plainly Milton speaking when he denounced despair as the worst burden of the damned. *Samson Agonistes* did not suggest that the blind and struggling Samson, let alone a blind old poet, could singly save his people; but he could display courage, could do what damage lay in his power to the enemies of the Lord, and at least remind his people of what freedom was.

IF THERE IS ANYTHING forced or unconvincing in all this, it lies in an area of historical scholarship outside the reach of most of Hill's readers. *The World Turned Upside Down* was devoted to showing that in addition to the "two cultures," that of the Court and that of its Puritan opponents, there was a third, popular culture, a sort of radical heretical underground, having much in common (at the psychological level, anyway) with the counterculture of the late 1960s. *Milton and the English Revolution* tries to place Milton at something like the junction of the second and third cultures, where orthodox educated Puritanism might be infected by Ranters, Quakers, Fifth Monarchy Men, Muggletonians, and other anarchists and millenarians. The transmission of their ideas was not through writings that would have had their authors burned (until the early 1600s) and hanged (until 1700), but through tavern conversation. Whenever social control weakened, this left-wing utopianism appeared above ground; whenever the upper classes once again got the upper hand, it vanished.

There are immense difficulties in the way of deciding whether there really was a subterranean tradition or whether millenarian ideas simply tend to reappear more or less spontaneously in unsettled times—difficulties that anthropologists face more often perhaps than do historians. But whatever their solution, it cannot be said that Christopher Hill makes much of a fist of showing that Milton got many of his ideas from lower-class characters down at the pub. That he and they held some ideas in common says a good deal about the limited number of answers to the questions posed by the Christian faith. It tells one nothing a priori about how he could have come by them, and *Milton and the English Revolution* tells one rather little a posteriori about how he did come across them. But it would be a pity if the wrangling over all this —which professional historians will certainly engage in—were to deter the rest of us from enjoying a book that although evidently a labor of love for its author, is no labor but continous pleasure for its reader. ❏

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INTERPRETATIONS OF FASCISM, by Renzo De Felice. Harvard University Press, 248 pp., $15.00.

Revolutionary reaction

A. James Gregor

*If one chose to scandal*ize, it would be difficult to find a less likely agent for that purpose than Professor Renzo De Felice. An urbane and critical democratic socialist, he seems entirely innocent of any qualities that might scandalize anyone. For all that, De Felice has written a series of books that have outraged so many on the Italian peninsula that his academic works—like all academic writings, unlikely candidates for popular attention—have been catapulted into the best-seller lists.

For Americans all this is at first more than a little hard to understand. As a consequence of his work, De Felice has been characterized by some of his countrymen as motivated by dark political impulses, possessed of insensitivity, handicapped by professional incompetence, and afflicted with an impaired moral sense. The immediate cause of such abuse was the recent appearance of his interview with the American Michael Ledeen (an interview now available in English translation as *Fascism: An Informal Introduction to Its Theory and Practice*, Transaction Books, 1976), in which De Felice ventilated some unconventional opinions about Mussolini's Fascism. In his exchange with Ledeen, De Felice ventured to suggest that Fascism had a number of affinities with the "left-wing" traditions of the West; further, that Fascism displayed some features commonly called "progressive"; and, finally, that it was, in fact, a "revolutionary phenomenon."

These judgments, of course, were not coined on the occasion of his interview with Ledeen. He had introduced them into currency long before, but they had been buried in the thousands of pages of his impressive biography of Mussolini (which already amounts to four large volumes and will run to six). They also appear in the work under consideration here, which was first published in 1969 and has since undergone successive revisions (the translation into English follows the text of the fifth edition). But once they were exposed to public scrutiny in the fewer than 100 pages of the text of an informal interview, they provoked anguished cries from virtually every quarter.

That Italians should find such judgments highly irritating is, on consideration, perfectly comprehensible. For years after the Second World War, they were content to repeat the omnibus evaluations of foreigners (mostly Americans), who conceived Fascism to have been little more than benighted reaction, devoid of ideological substance, or else a case of temporary demonic possession and an inexplicable "parenthesis" in Italy's modern history. Fascism and Hitler's National Socialism were looked on as all of a piece—the Italians even coined a barbarism, *nazifascismo*, to immortalize the identity.

*But for English-speak*ing readers, particularly Americans, De Felice's assessment of Fascism as revolutionary and perhaps "progressive" will present less of a problem than the ambiguity of some of his politically less sensitive conclusions, as I shall suggest later. That is not to say that there is not a great deal that we can learn from De Felice's work. The book takes us through the many interpretations offered to enable us to understand one of the most fateful sequences of political events of the twentieth century.

In Part One, De Felice reviews the "classic interpretations," those offered by Catholic writers, social scientists, and authors who, like Ernst Nolte, view Fascism as "metapolitical"—as a phenomenon bursting through the limits of ordinary politics. Among the views cited is that of Jules Monnerot, that "Fascism brings into contemporary focus the principle of social solidarity for a historical collectivity . . . from this point of view Fascism is socialist in the etymological sense" (p. 99).

In Part Two, De Felice treats interpretations of Mussolini's Fascism by Italian authors, beginning with chronological accounts of the complex sequence and ending with interpretations that exploit "cultural and historiographic orientations." All of this is done with skill and insight. In a "Conclusion" of fewer than two dozen pages, De Felice delivers some summary judgments that are the fruit of a quarter of a century of study and reflection.

De Felice maintains that an adequate understanding of Fascism

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can be acquired only through an appreciation of its history. "A definition of Fascism," we are told, "implies above all else writing the history of Fascism"; as a consequence, "Fascism" is necessarily restricted, in space, to Europe, and, in time, to "the time span encompassed by two World Wars." Fascism was a European, more specifically an Italian event. It was, by and large, a "middle class" phenomenon, involving "farmers, merchants, professionals, small businessmen . . . white collar employees, accountants, and salaried intellectuals. . . ." De Felice argues that these elements of the Italian population, alienated by the "errors of the working-class parties and the fear of Bolshevism [were] impelled . . . toward Fascism. . . ."

THE LEADERS OF FASCISM, like the leaders of all revolutionary movements, were of middle-class provenance either "involved in movements of the extreme Left where they held responsible positions, or they were war veterans." In De Felice's view, the "declassed" character of its leadership, and its middle-class social base, allowed Fascism a considerable degree of autonomy vis-à-vis the "upper bourgeoisie." Fascism was not, in fact, a "tool" of "big business." Its international policies were actually in conflict with the general interests of Italy's most "privileged classes," and in general, it "pursued objectives that would increasingly diverge from the natural goals of capitalism."

For at least these reasons, Fascism was a "revolutionary" phenomenon, according to De Felice. It did not represent the interests of "capitalism," much less the interests of the "upper bourgeoisie." Any interpretation that conceives Fascism to have been simple capitalist reaction is substantially in error. Similarly, whatever truth there is to be found in the generalizing "social science" interpretations must be lodged in the above framework, which, in turn, must be fleshed out with historic detail if a convincing account is to be forthcoming. De Felice is unremittingly historical in orientation—any treatment other than that of a detailed historical narrative of a specific temporal sequence can only provide "working hypotheses" or "conceptual stimuli."

Given these methodological commitments, the study of Fascism, it would seem, can be nothing other than a concern with the dead and finished past. The author counsels us not to seek out comparative insights other than those that are most transparent. Fascism and Hitler's National Socialism, for example, may have had some affinities, given their geographic and temporal proximity, but one should not attempt to make too much of them. In this sense, De Felice maintains, the social sciences—the "generalizing" disciplines—can be expected to "contribute little" to understanding phenomena such as Fascism.

But for all that, De Felice recommends the study of some generalizing and comparative works, for instance Ludovico Garruccio's *L'industrializzazione tra nazionalismo e rivoluzione* (1969), in which Italian Fascism is conceived as the first exemplar of a modernizing movement in an environment of retarded industrialization. Garruccio suggests that many contemporary regimes in the Third World display features characteristic of Mussolini's Fascism: the functional role of the "vanguard party," mass mobilization, formal ideology, the presence of a "charismatic leader," emphasis on military postures, opposition to "capitalist plutocracies," insistence on the restoration of the nation's "lost territories," the institutional necessity of a strong, centralized and highly bureaucratized state, and the inculcation of obedience, commitment, and sacrifice. Not long ago, Walter Laqueur alluded to just such properties to be found in varying measure among Third World nations as evidence of a "second coming" of Fascism in the contemporary world.

ULTIMATELY, IT IS NOT AT all clear what De Felice is proposing to us. Is Fascism to be understood as a phenomenon restricted exclusively to the Italian peninsula during the period between the wars—or does Fascism have a larger significance for our own time? But if we grant that Fascism shares some species-traits with an indeterminate collection of contemporary movements, how can we come fully to understand the phenomenon by pursuing its history exclusively on the Italian peninsula?

Brenda Huff Everett has given us a good translation, but as one might expect, there are some errors. In one place, for example, someone succeeded in dropping a line or two of the original text, and what should have read " . . . the Nazi system was not a form of the politics of modernization, but a variant of the politics of welfare," reads instead ". . . the Nazi system was not a form of the politics of welfare" (p. 101). Happily, most of the remaining errors are not so misleading.

For his part, Charles Delzell provides an interesting introduction. The bibliographical material following the text is itself almost worth the price of the book to anyone seriously interested in the scholarship of the subject.

Finally, although De Felice goes to considerable lengths to resist it, it may be that in coming to understand Fascism, we might come to understand something of great significance in the modern world—something about politics, revolution, and the contemporary challenge to political liberty. De Felice's brief book is a point of departure in our search for an adequate interpretation of Fascism. It is a superb beginning—not a terminus. ❑

ECONOMIC REGULATION AND THE PUBLIC INTEREST: The Federal Trade Commission in Theory and Practice, by Alan Stone. Cornell University Press, 314 pp., $15.00.

In restraint of trade

D. T. ARMENTANO

AT LEAST SINCE THE appearance in 1963 of Gabriel Kolko's pathbreaking business history, *The Triumph of Conservatism,* there has been increasing skepticism concerning the real origin, intent, and effect of trade regulation legislation in this country. Kolko challenged the venerable legend that "progressive" legislation in the early years of this century was enacted in order to protect consumers and enhance the general welfare. According to Kolko and other revisionists, most of the legislation and regulation is more accurately viewed as intending to lessen competition and promote existing business interests. What businessmen were unable to ac-

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complish through voluntary restraint in the marketplace, they were often able to accomplish through political and legal restraint under the cover of "progressive" trade regulation. Hence the "triumph" of conservatism.

Alan Stone's *Economic Regulation and the Public Interest* can be seen as extending and further substantiating the Kolko thesis, the author's own protestations notwithstanding. Stone informs us, right off, of his deep admiration for the Kolko approach, and the bulk of this carefully written and documented book is a virtual confirmation of the proposition that just about everything the Federal Trade Commission does ends up *restraining* trade and competition, and thus furthering existing business interests. But this proposition is too simple according to Stone. Yes, yes, businessmen have employed the FTC to soften competition and entrench their own market positions, and yes, yes, consumers have been ill-served by the arrangement. But that is not the entire story (according to Stone). The FTC was also intended and has been employed to expand competition, and to limit monopoly and fraud. Indeed, it is this alleged ambiguity of intent and purpose, this "contradiction" (and not poor administration), that has made the FTC appear floundering and ineffectual. Thus while Stone agrees with the revisionist criticism of trade regulation, he is anxious to conclude that their work is incomplete, only "part of the picture."

CERTAINLY STONE (WHO WAS a trial attorney with the FTC from 1960 to 1968) has marshaled more than enough evidence to confirm the Kolko thesis with respect to the operations of the Federal Trade Commission. Witness this blistering array of conclusions from his key chapters:

- Exclusive-dealing and tie-in practices by businessmen are almost always *competitive* devices to win or hold customers; the FTC restrains competition and injures consumer welfare when it prosecutes such practices.
- The overwhelming proportion of the FTC's prosecutions in the area of price discrimination have been "in the direction of promoting stability and limiting competition."
- The beneficiaries of the FTC's prosecution of "deceptive practices" have been not consumers, but the competitors of those prosecuted. So-called deceptive practices are often only competitive practices that industry trade associations have been anxious to limit in the interests of their established members.
- "Flimflam" or false advertising cases have had "no significant effect on consumer safety, health, or income" and are pursued by the FTC mainly at the behest of affected businessmen and trade associations. Stone concludes that "the Commission has been used by affected businessmen to harass sellers and others who desire vigorous price competition."
- Standards and labeling legislation (Wool Products Labeling Act, Textile Fiber Products Identification Act, etc.) were attempts by the "traditional business sectors to stem the competitive tide"; they represented "attempts to lessen competition by imposing standards." As one congressman put it with respect to the Wool Act:

The bulk of this carefully documented book confirms the thesis that just about everything the FTC does ends up restraining competition and thus serves the interests of existing firms.

> Those of us from wool-producing areas . . . have been vitally interested in securing passage of a truth-in-fabrics bill, realizing that it would result in a much greater use of virgin wool, with a consequent rise in price to the producing farmer.

- Even in the area of consumerism the laws enacted (fair packaging, truth-in-lending) "have been either innocuous or even beneficial to leading business firms. Each of the new laws inhibits unacceptable forms of competition. . . ."

Thus the bulk of Stone's own findings conflict sharply with his notion that the Kolko thesis is incomplete in some important way. Almost everything Stone presents is consistent with the thesis that the major aim and effect of regulation has been to consolidate the position of existing firms. We will need still another book on how the FTC "really" helps the consumer to be persuaded otherwise. ❏

***IN PRAISE OF ENGLISH*, by Joseph T. Shipley. Times Books, 310 pp., $12.95.**

***BAD MOUTH*, by Robert M. Adams. University of California Press, 138 pp., $7.95.**

Light words and dark

NOEL PERRIN

ISAAC D'ISRAELI'S CURIOSITIES of Literature came out in 1791. Being full of genuine curiosities—with a certain amount of critical taste thrown in—it sold well. People were interested in his gossip, oddments, bits of original research, tales of the great. D'Israeli happily published a second volume of *Curiosities* in 1793—and then kept adding more for the rest of his life. The sixth and apparently final volume came out in 1834.

A hundred and forty-three years later, a seventh volume has appeared. It came out in New York last November. I don't mean that D'Israeli has been bustling around heaven all this time, collecting new stories about Blake and Chatterton, and sending them by spirit transmission to the New York Times Book Company, or even that some scholar has unearthed a lost D'Israeli manuscript in the British Museum and has whizzed it over. I am speaking more loosely. The new volume is by a retired New York drama critic and professor named Joseph Shipley, who may not even have been conscious that he was continuing the series. His book is called *In Praise of English*. But what it should be called is *Curiosities of Words*, and it has the D'Israeli strengths and weaknesses to a tee. Shipley is garrulous, amusing, learned, and unselective.

If the book had a theme (which it doesn't), it would be that because of its diverse origins, English is the best of all languages but that it is currently in great danger of corruption by absurdist artists and anything-goes grammarians.

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But Shipley's real interest is elsewhere. It's in telling every good story he has ever heard about words, together with rules for word games, brief speculation about the origin of language, a short history of obscenity, and so on. He devotes two full pages to quoting "the longest grammatically structured sentence in our literature." (Sir Thomas Urquhart wrote it around 1650, and it is a quite niftily erotic two-page sentence.) He devotes another two pages to a digression on the number three, and half a chapter to palindromes and anagrams.

If you want to understand why obscenity and hostility have enjoyed such a breakthrough in our time, and what their functions are, you couldn't do better than to start with Adams's fine book.

THE GREATEST STRENGTH of the book is that Shipley really does know all sorts of arcane things about language in general and English in particular. If he quotes all the old familiar stories about tricky language (down to and including P. T. Barnum's "This Way to the Egress"), he also tells hundreds more that will be new even to most educated readers. He has a passage from Jonathan Swift, new to me, that I expect to quote more or less weekly for the rest of my life.

But true to its *Curiosities* form, the book also has an enormous weakness. Shipley gives everything the same value. He seems almost incapable of distinguishing between the trivial and the important, the recondite and the familiar. All gets told in the same chatty voice. He does occasionally raise important questions. For example, having spent six or seven pages discussing slang (with lots of fascinating erudition, such as the true etymology of the Bronx cheer, or raspberry, which is worth knowing), he attempts a value judgment. "Slang being thus pervasive and persistent, one is led to inquire whether it is healthful, like good exercise, or harmful, like the common cold," he writes.

But heirs of D'Israeli can't answer such questions. What Shipley can and does do is to quote Fowler, Pope, G. K. Chesterton, and Mr. Dooley (two for, two against), observe that slang is here to stay, and then hastily begin another chapter. No one will gain either wisdom or insight from a book like this. But amusement and unpedantic learning—they are present in quantity.

Robert M. Adams's *Bad Mouth* is the exact opposite of Shipley's book, in all ways but one. What the two books share is a feeling that our language is much abused at present—but where one veers off into palindromes, the other sets out to explore the nature of the abuse.

ADAMS'S BOOK, MAYBE A third the length of Shipley's, consists of six linked essays, all on what he calls "the negative and hostile uses of language." Though he occasionally glances at hostile modes in the past, what he's really concerned with is America now. Everyone is aware of what Adams calls "the vast change in the cultural weather" that has taken place in the last 50 years; no one has yet gone very far toward explaining it. Nor does Adams tackle that whole enormous subject here. But he does look at new styles in obscenity, at what does (and doesn't) constitute an insult in contemporary America, at new modes of lying, at the esthetics of ugliness, at deliberately ragged language. Except partly in the case of the new-style political lie, where anger blinds him a little, his concern is always to see what attracts us to these modes, why we have them.

The result is a marvelous little book. Where Shipley is diffuse, Adams is compressed. Where Shipley tells anecdotes for their own sake, Adams (who knows some good ones, too) always uses his as diving boards into speculation. Shipley is fun; Adams is interesting. Shipley is easy; Adams is hard—not because of his style (he is a fine writer), but because he's always pushing you to the limits of your perception.

If I couldn't summarize Shipley's thesis because there isn't one, I can't summarize Adams's because it's too complex. About all a reviewer can do is to say that if you want to understand why obscenity and hostility have enjoyed such a breakthrough in our time, and what their functions are, you couldn't do better than to start with this book. If you're prepared to do a little mental climbing, that is. As Adams says near the end, "One has to transcend his innocent interest in being regaled with a rousing yarn, his desire for a safe and wholesome moral lesson, to reach the thin, high air that's fit to breathe." ❏

***DYNASTY*, by Robert S. Elegant. McGraw-Hill, 625 pp., $10.95.**

Inscrutable schlock

LINDA HO

*MOST WESTERNERS EN*counter the Chinese mind at the level of that most American of inventions, the fortune cookie, which dispenses vaguely Chinese sentiments in a saccharine package. Variations on the fortune cookie have ranged from the pseudointellectual (Hesse's "Der Dichter") to schlock (Charlie Chan movies). The latest variation on the theme is Robert S. Elegant's *Dynasty*. Described on the dust jacket as "a novel of China," it has the distinction of numbering not one Chinese among its principal characters.

The action begins in 1901, when Mary Osgood, the daughter of a British army bandmaster stationed in colonial Hong Kong, marries Charles Sekloong, the son of a Eurasian baronet. During the next 70 years, the Sekloongs become the most financially powerful family in Hong Kong. In this same period, the Manchu dynasty crumbles and the Republic of China falls to the Communists, but the developments on the familial and the high political levels are joined by nothing more convincing than the author's whim, as his protagonists become the improbable puppet masters of Chinese destiny. The Sekloongs include a prime minister of China, two generals (one Nationalist, one Communist), a cardinal of the Church of Rome, and the wife of an

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American secretary of state, and they pop up ubiquitously to influence every single major event in recent Chinese history, with the exception of the Long March.

Nor are these coincidences the necessary, if regrettable, result of the exigencies of the plot. In one unintentionally funny scene, incest is narrowly averted at an orgy when sister recognizes brother, naked except for a mask and platform boots, only after he removes the latter. Nothing, however, compares with the denouement, in which the Sekloong clan, summoned to Hong Kong for Lady Mary's 90th birthday, manages to avert World War III in what can only be described as a *deus ex maChina*.

Described on the dust jacket as "a novel of China," it has the distinction of numbering not one Chinese among its principal characters.

TO ANYONE FAMILIAR WITH Hong Kong history, it is immediately apparent that the Sekloongs are based on a certain famous Eurasian family. Despite his wild imagination where plot is concerned, Elegant fails to flesh out these borrowed characters. He tells us in relentless detail what they wear and what they eat, but never succeeds in explaining what makes them the way they are. And by casting them in the role of China's power brokers, the author has to alternate the scene constantly between Hong Kong and China, and to describe major Chinese political events without giving a historical and cultural context for them. Instead of being persuaded that the fate of the Sekloongs is linked to that of China through a kind of historical inevitability, one simply feels that the book fails both as a family chronicle and as a historical novel.

The awkward joinings show in the prose. Turgid in its "novelistic" descriptions ("hoarse foghorns reverberated jubilantly," "the shock of her décolleté . . . was dimmed [*dimmed?*] by the single 112-carat diamond that hung between her breasts"), it shifts abruptly into journalese when the author describes the making of history.

By making the central characters Eurasian, and therefore pariahs to both the English and Chinese, the author gives himself the opportunity for detached observations on both cultures. And it is true that Elegant has some interesting things to say about the class-consciousness of the British in Hong Kong, the greed of the Hong Kong Chinese, the uneasy relationship between the races, and the restrictiveness of the quasi-Chinese Sekloong family system. Occasionally he will throw away a remark that deserves to be developed, like the fact that the Chinese word for "humor" is a transliteration of the English one.

ON THE WHOLE, HOWEVER, such opportunities are not fully exploited. None of the characters has a developed relationship with a Chinese equal, so that the interplay between Chinese and Eurasians is viewed from a perspective of condescension. The only English character who shows an interest in the Chinese mind is eventually trampled to death by a Chinese mob, as if in retribution for having such low taste.

In fact, the most striking aspect of the book is the plenitude of anti-Chinese sentiment. (To be fair, Elegant is not exclusive in his bigotry; his remarks about Jews, in a description of General "Two-Gun" Cohen, are too embarrassing to quote.) It seems that every other Chinese has black-rimmed fingernails, reeks of sweat, or lives in a hovel amid a "fecal stench." I would never deny Elegant the prerogative of portraying the Chinese with warts and all, but he goes beyond that, and, to compound his one-sidedness, he fails so badly in depicting the Chinese character that it renders insubstantial the motivation of the historical events he describes. This is even more regrettable in light of the fact that Elegant is a former Hong Kong bureau chief and China watcher for the *Los Angeles Times*; it is distressing to think that his pronouncements have been, and are going to be, taken *ex cathedra*.

Readers who want their China exotic and inscrutable will certainly get reinforcement from *Dynasty*, if they are not bludgeoned into insensibility by the florid prose. Be forewarned, though, that at 625 pages, more is less. ❑

WHITE PAPER ON CZECHOSLOVAKIA, published by the International Committee for the Support of Charter 77, 269 pp., $20.00. (May be ordered from Mme France de Nicolay, 3 rue des Lions, 75004 Paris, France.)

VLADIMIR V. KUSIN

THIS REMARKABLE DOCUmentary collection deals with the infringement of human rights in Czechoslovakia *after* the signing of the Helsinki Final Act in 1975 and, more particularly, in connection with the promulgation of Charter 77 in January 1977. The editors have assembled translations of full texts or extensive summaries of an impressive number of statements made by the opponents of pro-Soviet "normalization" in Czechoslovakia, as well as scores of pieces of documentary evidence on how those opponents have been treated by the authorities. The documents include notices dismissing people from work for holding dissenting views, descriptions of discriminatory practices applied against dissidents' children seeking secondary and higher education, case histories of artists and scholars who have been silenced and persecuted, and instances of harassment and chicanery directed by the police against protesters.

In a thoughtful introduction, distinctions are drawn between those human rights and provisions of the Helsinki Final Act that are acceptable to the Communist regimes, those that are negotiable, those that can be obtained only exceptionally, and finally, those that are simply out of bounds because their recognition in practice (and not on paper alone) would touch the very roots of the authoritarian system. It is also made clear that for a large number of people in Czechoslovakia, the issue of human rights is not just an element in the game of power politics between the United States and the Soviet Union. Rather it is a matter of daily concern, the result of an ethical vacuum created by the suppression of reformist strivings during the Prague Spring. *White Paper on Czechoslovakia* is an altogether important volume that no library or individual observer should be without. ❑

VLADIMIR V. KUSIN is director of the Information Centre, International Committee for Soviet and East European Studies.

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HOWARD HAWKS, 1896–1977.

Farewell to a Hollywood master

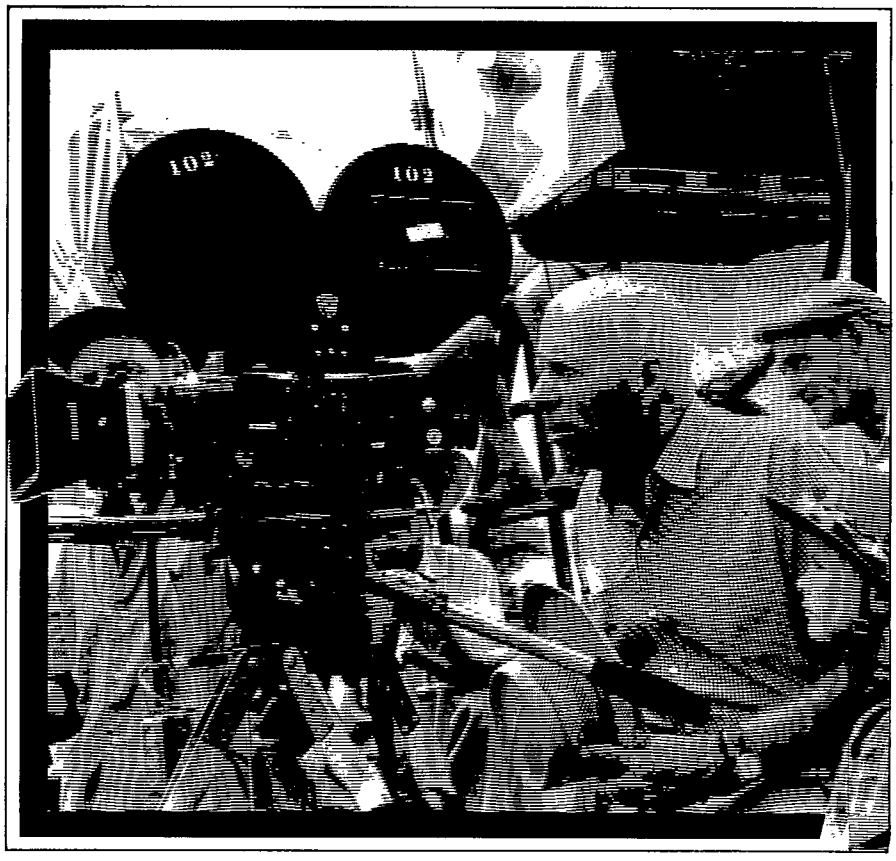
STEPHEN HARVEY

AMERICAN MOVIEGOERS owe a tremendous debt to the French, particularly for having given us the cue to take a good hard look at our own movie heritage. Long before they had the chance to hover behind viewfinders of their own, Truffaut, Godard, and the rest were extolling the great Hollywood masters in the pages of *Cahiers du Cinéma,* at a time when "serious" film aficionados on this side of the Atlantic thought cinematic art invariably came equipped with subtitles. Before we stopped taking our own movies for granted, we had to wean ourselves from the mad notion that art and pleasure were mutually exclusive, or that high seriousness of purpose was the sine qua non of filmic achievement. Thanks partially to the example set by those dogged *cinéphiles* two decades ago, it's now acceptable to voice the opinion that *His Girl Friday* might actually be a better film than *Ten Days That Shook the World.*

Undoubtedly, some of the French cultists' pet enthusiasms have to be taken with a kilo or two of salt—it's a lot easier to take the Lana Turner–Jane Wyman weepers of Douglas Sirk seriously if you don't understand the language. None of their causes, however, was more justified than the career of Howard Hawks, who was responsible for as many skillful and entertaining American films as any director Hollywood has ever produced. When Europeans speak of the "typical" virtues of American movies—their unpretentious immediacy, technical polish, and quicksilver pacing, plus the knack for enclosing a core of sentiment inside a slick veneer of well-timed wisecracks—almost invariably it's Hawks's work they're talking about. During a tenure in Hollywood that spanned more than 40 years, Hawks tackled practically every genre known to the American screen, from Westerns to *film noir,* musicals, screwball farce, and even science fiction, and sooner or later mastered them all.

HAWKS CAME OF AGE AT A time when movie directors were regarded as little more than the well-heeled foremen on the movie assembly line, expected to be prolific, efficient, and infinitely adaptable. From the start of his career as a contract director at Fox in the mid-twenties, Hawks was assigned to churn out more celluloid in a year than present-day *auteurs* manage to eke out in five. His earliest projects covered a bewildering range from marital comedies *(Fig Leaves)* to Arabian passion *(Fazil,* which featured Charlie Farrell, of all people, as the sheik in question), but they did serve the purpose of teaching him his craft in a hurry. Much of his silent work no longer survives, but what does demonstrates that by 1927 Hawks had already developed a distinctive flair of his own—a little item of that year entitled *Paid to Love* offers a deliciously wry poke at the Ruritanian romances of the period, featuring William Powell as an archetypally lascivious Continental roué.

Hawks firmly established his reputation, however, with the World War I extravaganza *The Dawn Patrol* (1930). His first sound film, it featured the theme that was to recur time and time again in his work over the next four decades—the code of male friendship and professionalism. The immutable laws governing the Hawksian fraternity consisted of a tireless drive to get the job at hand done properly, an unswerving loyalty to one's comrades in arms, and a gallant nonchalance in the presence of danger. Hawks applied this ethos to male groups ranging from speed racers *(The Crowd Roars,* 1932) to bomber crews *(Air Force,* 1943), crime reporters *(His Girl Friday,* 1940), safari hunters *(Hatari!,* 1962), and even a gaggle of egghead etymologists *(Ball of Fire,* 1941). As the unwitting forebear of all



STEPHEN HARVEY, INQUIRY*'s film reviewer, is coordinator of the film study program, Museum of Modern Art, New York City.*

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those odes to buddy-buddy camaraderie of the last five years or so, Hawks has a lot to answer for, and his own movies have more than a tinge of sodden Boy Scout nostalgia to them. Yet like other great directors, from Chaplin and Ford up or down the ideological scale to Eisenstein, Hawks had the gift of rendering even the most suspect notions persuasive through the adroitness and sincerity with which he translated his vision to the screen.

Although so many of his movies celebrated the grit and fortitude of the American male, as far as I'm concerned the Hawksian women are today the most vital and diverting of all his creations. These heroines of the thirties and forties were defined by their ease at adapting themselves to a "man's world"; yet, because of their refusal to simper lachrymosely in soft-focus close-ups, they are much more identifiably modern than their counterparts in the sentimental "women's pictures" of that period. Characters like Rosalind Russell's gabby, aggressive headline-hunter in *His Girl Friday,* the ironically seductive drifter whom Lauren Bacall impersonated in *To Have and Have Not* (1944), or Jean Arthur's spunky, stranded chorine of *Only Angels Have Wings* (1939) are fun because they're smart and know it. Despite the heavy musk of machismo that hangs over much of his work, Hawks had the wit to appreciate and showcase women who had more than their share of brains and a sure sense of their own self-worth.

Many of his movies celebrated the grit of the American male, but today the Hawksian women are the most vital of his creations. Hawks had the wit to showcase women who had more than their share of brains and a sure sense of their own self-worth.

FOR ONE SO PREOCCUPIED with the masculine credo, Hawks came rather late to the Western, making his first major foray into the genre with *Red River* in 1948. Much has been written about this film, the best Western John Ford never directed, as well as the others that followed, culminating in his last effort, *Rio Lobo,* in 1970. Being unusually resistant to this genre, I have little to add concerning them, except that I think it's more than mere prejudice that makes me prefer his comedies and melodramas. For one thing, the latter allowed Hawks the opportunity to flex his skill with flavorful, contemporary speech, which at its peak was matched by few other American film-makers. Working with such writers as Jules Furthman, Ben Hecht, and William Faulkner, Hawks perfected the kind of heightened colloquial byplay that is one of the most bracing features of American movies from Hollywood's so-called golden age. In films like *His Girl Friday* and *Twentieth Century,* the assembled zanies expend most of their energy frantically interrupting each other in the hopes of grabbing the last word; nobody wins, of course, except the audience. (Yet even Hawks realized that there are those occasional deathless bon mots that simply can't be topped; witness the Bacall of *To Have and Have Not* slinking out of Bogart's hotel room door, her eyes two feline slits while she breathes at him the suggestion, "You know how to whistle, don't you, Steve? Just put your lips together and blow." Quick exit, a leer and whistle from Bogart, fade-out.)

It's no denigration of such great Hawks set-pieces as the cattle stampede in *Red River* or the breathtaking aerial battles in *Air Force* to say that any competent director with a touch of imagination, together with a good cinematographer and editor, could have done almost as well. Hawks's real gamble lay in taking cramped,enclosed spaces, which would have seemed claustrophobic in other hands, and building a vibrant movie inside them. Virtually all of *Only Angels Have Wings* takes place in a tropical airport cantina, *His Girl Friday* is confined mostly to a police-precinct pressroom, and *Twentieth Century* unfolds inside a streamlined train compartment; but Hawks's unobtrusive craftsmanship makes even a single set seem as varied and expansive as the wide open spaces of *Red River* and the like. The comedies also had the virtue of giving Hawks a breather from all that overheated grace-under-pressure business. In *Only Angels Have Wings* Hawks employs Cary Grant as the stalwart pillar of sober Hawksian masculinity; unleashed in the comedies, Grant cavorts in somebody's borrowed peignoir *(Bringing Up Baby,* 1938), clumps across postwar Europe in an ill-fitting WAC uniform *(I Was a Male War Bride,* 1949), and, as a scientist turned menopausal bobby-soxer, cuts a rug with Ginger Rogers *(Monkey Business,* 1952). And the result is as uproarious as it is startling.

DESPITE THE REAMS OF monographs and theses produced on two continents on the overall coherence of Hawks's vision over the years, to my mind it was his extraordinary versatility that made his career so singular. It's almost inconceivable that the same man could have presided over both *Scarface* (1932) and *Gentlemen Prefer Blondes* (1953)—the first a staccato, chiaroscuro portrait of ambition and closet incest in the guise of a typical gangster film; the second a live-action cartoon in Cinemascope and lurid De Luxe Color taking subversive aim at the fifties cult of the mammary gland as embodied by Jane Russell and Marilyn Monroe. (One of the most audaciously vulgar moments in all movie musicals is contained in this epic, as Jane Russell sings of her romantic frustrations while flanked by a screenful of bicep-bursting musclemen, too engrossed in pumping iron to take heed of her.) It was a matter of professional pride to Hawks that he could take the most unlikely property and transform it into sure-fire material for the screen.

The genesis of *To Have and Have Not* lay in Hawks's boast to Hemingway that he could make a diverting film out of the novelist's lousiest book; by taking considerable liberties with the text and stealing a few backward glances in the direction of *Casablanca,* Hawks brought off one of the few movies based on Hemingway that managed to preserve the terse vigor of their source. At different times, the scenarios Hawks tackled ranged from the labyrinthine to the

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invisible—the plot of *The Big Sleep* (1946) makes about as much sense as *Il Trovatore*, while *Bringing Up Baby* spends 90 minutes pursuing dotty paleontologist Cary Grant and addled heiress Katharine Hepburn as they chase a recalcitrant leopard named Baby—period. Thanks to Hawks's breakneck tempo and the high-spirited virtuosity of his actors, contemporary audiences were too winded and exhilarated at the finish to notice, and remain so today whenever these films are unearthed by revival houses or for that umpteenth rerun on late-night TV.

In later years, Hawks was rather bemused at all the accolades lavished on his work in journals from *Cahiers* to the *Village Voice*, and proclaimed that his next project would be an old-fashioned flick "à la Bogdanovich." Yet his work remains fresh precisely because it's so un-self-conscious; apart from rare exceptions like *Sergeant York* (1941), Hawks very seldom made movies with an eye cocked toward posterity. Working for a mass audience within an industry for which the weekly box-office grosses in *Variety* constituted the most compelling message of all, Hawks's career is proof that whether it knew it was doing so or not, at its best Hollywood was indeed creating a lasting popular art.

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LETTERS

Letters to the editor should be addressed to INQUIRY Magazine, 1700 Montgomery Street, San Francisco, California 94111. The editors reserve the right to edit letters for length when necessary.

The Soviets are worse

THOMAS SZASZ [INQUIRY, DEC. 5, 1977] appears guilty of his own kind of "waxing indignant" over psychiatric abuse. I can agree with Dr. Szasz's proposition that psychiatric institutionalization is a likely end for persons who are hostile to the core values of a society, and that abuse of psychiatry is a problem in all Western societies. But it is one thing to say that and another to hide from the fact that the Soviets are going at least one better than the rest of us in such abuse.

First, Dr. Szasz in damning the West cites papers written in 1851, statutes most likely unenforced (the books are full of such antiquated statutes), and other dated material. Even if these materials illustrate the foundation of our psychiatric attitudes, they hardly measure up to the documented present-day Soviet abuses. Szasz should come forth with case studies on the use of political psychiatric torture in the United States, as Reddaway and others have done for the Soviet Union, if he wishes to equate degrees of evil here.

Secondly, there is a reexamination going on now in the United States about our psychiatric attitudes and practices. Meanwhile, attorneys are using habeas corpus and other legal remedies to attack our abuses. Unfortunately, the Soviet system is not open to such checks and self-criticism and so Western pressures are required to bring such abuses to light.

ROBERT R. ANDREWS, JR.
Minneapolis, Minn.

THOMAS SZASZ replies: To Mr. Andrews's first objection, my reply is that my initial essay in INQUIRY was on the historical background of coercive psychiatry. If Mr. Andrews does not appreciate the importance of history, that is not my fault. Perhaps because he doesn't, he is unaware even of the recent history of legal psychiatry—in particular of the fact that in Law, Liberty, and Psychiatry *(1963) and* Psychiatric Justice *(1965) I have provided precisely the sort of documented accounts of psychiatric terror in the United States for which he asks in his letter.*

It is absurd to compare psychiatric evils in the USSR and U.S. in the way Mr. Andrews does. Because the Russian state is infinitely more repressive than the American state, everything the former does—including institutional psychiatry—is bound to be more evil than what the latter does. Would Mr. Andrews excuse some religious repression in America because there is more of it in Russia? Of course not. Why then does he, and so many others, excuse psychiatric repression in America by arguing that it is less brutal or "political" than in Russia—when any *such repression is contrary to the letter and spirit of our Constitution?*

I strongly disagree with Mr. Andrews that Western pressure is required to change Soviet psychiatric abuses. Russia belongs to the Russians. It is the duty of the Russian people to change their political system if they do not like it. We should teach nations political morality just as we teach persons individual morality—by showing a good example, not by meddling in their affairs.

Expert testimony

PLEASE BE ADVISED THAT THE psychiatric abuses under the proposed S.1437 codification [*INQUIRY*, Dec. 5, 1977] do in fact now exist. From 1971 to 1973, I was a prisoner at the U.S. Medical Center for Federal Prisoners at Springfield, Missouri. One-third of the prison was for prisoners on psychiatric status ("P" number as they were known). Part of that section was for people there for determination of legal competency, i.e., whether they were competent to understand the charges against them and to participate in their legal defense. People were there both pre- and post-conviction. Some had been there as long as seven years and had not stood trial.

Drugs were used freely. Prisoners were turned into vegetables by the use of the drug Prolixin.

I could go on about other abuses of the psychiatric as well as medical section.

DON OLSON
Minneapolis, Minn.

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You probably have the 8th.

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2. A sore that does not heal.
3. Unusual bleeding or discharge.
4. Thickening or lump in breast or elsewhere.
5. Indigestion or difficulty in swallowing.
6. Obvious change in wart or mole.
7. Nagging cough or hoarseness.

8. A fear of cancer that can prevent you from detecting cancer at an early stage. A stage when it is highly curable. Everyone's afraid of cancer, but don't let it scare you to death.

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